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UNITED STATES
DEPARTMENT OF THE INTERIOR
DIVISION OF GRAZING
WASHINGTON

CIRCULAR NO. 1

RULES PROVIDING FOR SPECIAL ELECTIONS FOR DISTRICT ADVISORS

TO ASSIST IN MANAGEMENT OF GRAZING DISTRICTS

After the establishment of a grazing district, the Director of Grazing will perform all functions relating to grazing necessary to carry out the terms of the act of June 28, 1934 (48 Stat. 1269), and such other duties as the Secretary of the Interior may prescribe.

To assist the Director of Grazing in the performance of his duties, there are authorized to be advisors of local stockmen in each district.

To provide for the election of district advisors pending the holding of regular annual elections within grazing districts, the following temporary rules will govern:

A special election of district advisors shall be held in each grazing district within 90 days after the promulgation of the order therefor.

Notice of the time and place of said election shall be published in some newspaper of general circulation in the locality by the Register of the U. S. Land Office for the area or areas affected. The notice will also be posted in that office and in the principal post office in the locality involved.

Any person offering to vote at such election shall possess the following qualifications:

I. U. S. citizenship or one who has filed his declaration of intention to become a citizen.

II. A group, association or corporation authorized to conduct business under the laws of the State in which the grazing district is located. Each such group, association, or corporation shall have one vote regardless of the number of members, partners, or stockholders. Such vote shall be cast by any authorized member, agent or officer.

III. A voter must have the qualifications of a permittee in the district where he votes, which means that he must come under one of the following classes:

1. A bona fide settler or occupant of land in or near the district, owning livestock;

2. A resident within or near the district owning livestock;

3. A stock owner who has customarily run livestock on the public range of the district;

4. A land owner or lessee in or near the district engaged in the livestock business or an owner or lessee of water or water rights, the proper use of whose land or water requires grazing privileges within the district.

The ballot boxes shall be kept open on the day of the election from 2:00 p.m. to 5:00 p.m. and as much longer as necessary to allow those present at 5:00 p.m. to vote who have not voted.

The Director of Grazing may divide the district into voting precincts and fix the boundaries thereof and allocate number and classes of advisors to be elected therefrom and may designate voting places within such precincts convenient to the voters.

The representative of the Division of Grazing present at the time specified for opening the meeting shall with the consent of the electors present choose three electors to act as election judges, and the electors present may place in nomination the names of candidates, but voting shall not be restricted to any nominee.

Each voter shall prepare his own ballot by writing upon a piece of paper the name of the candidate or candidates for whom he votes. Each voter shall before depositing his ballot, state his name and residence to the election judges and be registered by them.

Any person offering to vote may be challenged by any qualified elector of the district, and thereupon the judges of election or one of them may require him to answer such questions, concerning his qualifications as a voter, as they may see fit.

If the person so challenged shall refuse or fail satisfactorily to show to the judges his voting qualifications, his vote shall be rejected; and the judges may after challenge reject the vote of any person offering to vote if in their judgment the said voter is not qualified to vote.

Each candidate at any election shall have the right to appoint any qualified elector to remain within the polling places during the casting and counting of votes and the declaration of the results thereof, and such person may act as a challenger.

Each elector shall vote once in only one district or precinct and for the candidate or candidates for the class of owners of livestock to which he belongs; and if he belongs to more than one such group, he shall elect with which class he will vote.

Where districts are divided into voting precincts, voters shall vote only for the candidates from their precinct.

Owners of not to exceed ten head of livestock kept for domestic purposes will be entitled to have one district advisor and such representative shall be a member of the class of owners who own not to exceed ten head of livestock kept for domestic purposes and who are otherwise eligible for a free use grazing permit.

Persons eligible only for free use grazing permits shall be permitted to vote only for one of the nominees from their class and will not be permitted to vote for any other member.

Voting must be done personally, and proxies will not be recognized nor accepted.

Immediately after the closing of the polls, the judges shall open the ballot box and count the votes. In case of a tie vote, a choice by lot shall thereupon be made by the judges in the presence of the tie candidates, or at least one representative approved by each such candidate for such purpose.

As soon as the ballots shall have been counted, the judges shall make out a certificate of returns under their hands, stating the number of votes cast, the number of excess, unused, or spoiled ballots, and the number of votes received by each candidate, both in words and numerical figures.

The judges of election shall post one copy of the notice of the result of the election at the polling place.

The registration list of voters, together with the ballots, shall be enclosed and sealed and forthwith delivered to the representative of the Division of Grazing, together with a notice of the result of the election signed by the judges.

DISTRICT ADVISORS

Qualifications:

All district advisors must possess the qualifications of an elector as set forth in paragraphs I, II, III, and any other provisions of this circular; and at least half of such advisors in each livestock section shall be persons who have had experience with livestock on the public lands of the district prior to January 1, 1934. The member representing the free use permittees shall not be required to have had previous range experience.

Members selected at such election, if thereafter regularly appointed, shall be required to qualify by an oath of office.

Term of office:

Persons thus selected for the first district advisors of a grazing district may be appointed by the Secretary of the Interior to hold office

only until the regular annual election within the district. The Secretary reserves the right to refuse appointment of any one for the good of the service.

Title:

The candidates, when duly elected and appointed, shall be known as district advisors.

Pay:

District advisors shall when called for service by the Director of Grazing, and not otherwise, receive the sum of $5.00 a day out of such funds as may hereafter be made available for that purpose, for each day necessarily spent in the performance of their duties; and in addition thereto, their necessary actual travel expense, as defined in the regulations, from their home to the place of performance of such duty.

Meetings:

District advisors shall meet as soon as practicable after their election and elect a chairman for the section representing each class of livestock and also a general chairman.

Meetings of the district advisors shall be open to the public except that the advisors may meet in executive session in considering recommendations for the granting of permits or for any other matter where such action is deemed advisable and the representative of the Division of Grazing concurs.

Duties:

District advisors shall recommend the issuance of grazing licenses and such special rules for range practice as seem advisable.

The district advisors will not make any recommendation upon their own applications but such applications shall be acted upon by the Director of Grazing.

The district advisors may serve as members of a committee to represent and transact business in furtherance of the interests of the licensees of the district, not in conflict with the Taylor grazing act or the rules and regulations thereunder, when properly authorized to do so by vote of the said licensees, provided that the performance of such services shall be independent of their duties as an advisory committee and they shall not receive any compensation or salary therefor from the United States.

Removal of Members:

The Secretary of the Interior reserves the right to remove any district advisor for failure to discharge the prescribed duties of his

office in accordance with the laws and regulations or for the good of the service.

Filling of Vacancies:

A vacancy in the position of district advisor occurring either by resignation, removal or otherwise, shall be filled by appointment by the Secretary of the Interior and the appointee shall hold office until the next regular election when a successor shall be elected.

(Sgd.) F. R. CARPENTER,

Director of Grazing.

Approved: April 23, 1935

Harold L. Ickes

Secretary of the Interior.

UNITED STATES
DEPARTMENT OF THE INTERIOR
DIVISION OF GRAZING
WASHINGTON

CIRCULAR NO. 2

RULES FOR THE GUIDANCE OF DISTRICT ADVISORS IN RECOMMENDING THE ISSUANCE OF GRAZING LICENSES

During the year 1935 and until such time as land classification studies can be made and the commensurate value of properties dependent on the public range determined, no permits will be issued under the act of June 28, 1934 (48 Stat. 1269), for grazing livestock in grazing districts.

During the intervening period, temporary licenses will be issued for not to exceed in the aggregate the number of livestock grazed on the public lands of the district in the year 1934. The object of this temporary license method will be to provide for the existing livestock industry using the public domain until such time as permits can be issued as provided for in said act. No fee will be charged for said licenses.

Licenses are revocable at any time in the discretion of the Secretary of the Interior and will terminate upon issuance of permits in the district.

The following definitions will be used in determining preferences for the issuance of licenses only and are subject to redefinition in any subsequent regulations:

1. Property - Land and its products or water owned or controlled within or near a district, which according to local custom is used in connection with livestock operations.

2. Dependent property is property whose proper use requires supplemental public land range.

3. Commensurate property is property which has livestock carrying capacity to supplement the public land range.

4. "Near" the district means close enough to be used in connection with public range in the district in usual and customary livestock operations. In case of range shortage, properties which are the nearest in point of distance and accessibility shall be given preference over those which are not so near.

5. Prior use is use of the public land range according to local custom for grazing livestock prior to the year 1935. Recent use and consecutive use shall be given consideration in rating priorities.*

After residents, bona fide settlers, and occupants within or immediately adjacent to grazing districts who have dependent commensurate property are provided with range for not to exceed 10 head of work or milch stock kept for domestic purposes, the following preferential classes in the order named are suggested for licensees:

1. Qualified applicants with dependent commensurate property with prior use.

2. Qualified applicants who have prior use but not adequate commensurate property.

3. Qualified applicants with dependent commensurate property but without prior use.

In recommending preferences for the issuance of licenses, the district advisors will recommend by classes until a use equal to the 1934 use of the range shall be attained. If a class more than exhausts the capacity of the range, all junior classes will be eliminated; and cuts within the last recognized class shall be made to a limited number recommended by the district advisors and approved by the Director of Grazing, until the necessary number is reached.

After recommending preference for licenses, the advisors may recommend such rules of fair practice for the range as they think proper.

Preferences for the issuance of permits will conform to section 3 of the act regardless of the order of preferences herein provided for licenses.

PROCEDURE AFTER RECOMMENDATIONS

Recommendations for licenses and rules for management of the range adopted by the advisors will be posted at the place of meeting by the representative of the Division of Grazing, and each applicant will be given notice of the recommendation as to his application, naming a date on which he may appear before the district advisors and present objections to such recommendation.

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* "Until July 1, 1935, no preference shall be given in the issuance of such permits to any such owner, occupant, or settler, whose rights were acquired between January 1, 1934, and December 31, 1934, both dates inclusive."

Upon completion of the hearing of such objections, the district advisors shall revise or reaffirm their recommendations and deliver the same to the representative of the Division of Grazing. Such lists and recommendations shall be signed by the chairman of the district advisors. The Director of Grazing shall send a notice to each applicant of the final action of the district advisors and shall name a day not less than ten or more than thirty days after the date of such notice and a place within or near the district, where he will hear objections to such recommendations, and where the applicant may appear to protest the same, or to protest any rules for the range which may be recommended by the district advisors.

Applicants dissatisfied with the decision of the Director of Grazing may within 30 days from notice of such decision appeal by filing a notice of appeal with the Director of Grazing who will forward the same to the Secretary of the Interior.

Hearings on appeal shall be held locally in accordance with the rules of practice in the Land Department and such further regulations as will be promulgated at an early date.

ISSUANCE OF LICENSES

In accordance with the recommendations of the district advisors, or for good and sufficient reasons, the Director of Grazing will issue licenses approved by the Secretary of the Interior. The issuance of licenses in appeal cases will await final decision by the Secretary. The form for such licenses is appended hereto.

PROMULGATION OF DISTRICT RULES OF THE RANGE

All special rules of range practice for the district as may be approved by the Secretary of the Interior shall be posted by the Registers of the U.S. Land Offices in their respective offices. The following general rules of range practice shall apply to all grazing districts.

GENERAL RULES OF THE RANGE FOR DISTRICTS

Following the issuance of licenses the following acts are prohibited on lands of the United States in said grazing district:

1. The grazing upon or driving across any public lands within said grazing district of any livestock without a license or permit from the Director of Grazing, except not to exceed 10 head of milch and work stock kept for domestic purposes by persons living in or contiguous to the district with dependent, commensurate property which shall be exempt from licenses under authority of section 5 of the Taylor grazing act.

2. Grazing upon or driving across said grazing district lands of any livestock in violation of the terms of a license or permit.

3. Allowing stock to drift and graze on said district lands without a license.

4. Violation of the terms of any grazing or crossing license.

5. Constructing or maintaining any kind of works, structure, fence, or enclosure without a license or except under authority of law.

6. Destroying, molesting, disturbing, or injuring property used, or acquired for use, by the United States in the administration of grazing districts.

Officers of the Division of Grazing may remove stock for which no licenses have been issued provided such stock are not in charge of a herder. If the stock are in charge of a herder, they may be driven off or impounded if after notice the owner or herder refuses to remove same and the removal or impounding can be accomplished without breach of the peace. If after notice the owner or herder refuses to remove the stock and the removal or impounding thereof cannot be accomplished without force, the trespasser may be arrested and tried in the the Federal court for the particular violation charge.

F. R. Carpenter.

F. R. CARPENTER,
Director of Grazing.

Approved: May 31, 1935

Harold L. Ickes

Secretary of the Interior.

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IN REPLY PLEASE REFER TO-P/D-BWM Circular No. 2.

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

APR 22 1911

ADDRESS ONLY THE
COMMISSIONER OF THE GENERAL LAND OFFICE

April 13, 1911.

: Substituted soldiers' addi-
: tional rights; instructions
: as to serializing.

Registers and Receivers,

United States Land Offices.

Sirs:

Much trouble is experienced by this office in cases where a soldier's additional homestead application is held for rejection and the applicant accepts the holding and files a substitute soldier's additional right, which is given the same serial number as the former application which was held for rejection.

In the future, without exception, whenever a substitute soldier's additional homestead right is filed in your office it should be accompanied by a formal application, form 4-008a, duly executed; and as the substitution amounts to a waiver of all rights under the rejected application, the substituted right should be given a new serial number. Publication and posting must be made as required by the circular of February 21, 1908 (36 L. D., 278), and a copy of the notice of publication must also be forwarded to the chief of field division for his endorsement, in accordance with the circular of April 24, 1907 (35 L. D., 681).

274
618
213

Very respectfully,

Fred Dennett

Commissioner.

Circular No. 6.

SECOND HOMESTEAD AND DESERT LAND ENTRIES.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., May 17, 1911.

Registers and Receivers, United States Land Offices:

SIRS: The following instructions are issued for your guidance in the allowance of second homestead and desert-land entries under the act of Congress approved February 3, 1911 (Public, No. 340), a copy of which is hereto attached.

This act allows a second homestead or desert-land entry, as the case may be, to any person otherwise qualified who, prior to February 3, 1911, has made entry under the homestead or desert-land laws, but who, subsequently to such entry, from any cause, shall have lost, forfeited, or abandoned the same, but the provisions of the act do not apply to any person whose former entry was canceled for fraud or who relinquished his former entry for a valuable consideration in excess of the filing fees paid by him on his original entry. This act allows a second entry of either kind if the former entry was made prior to February 3, 1911, although it may have been lost, forfeited, or abandoned subsequent to that date.

A person applying to make second homestead or desert-land entry under this act must file in the local land office an application to enter a specific tract of public lands, subject to entry under the laws in question, accompanied by his affidavit executed before an officer authorized to administer oaths under the public-land laws, stating the description of the former entry by section, township, and range numbers (or the number of the entry and land office where made); date of entry; when he lost, forfeited, or abandoned the same; that it was not canceled for fraud; and the amount, if anything, received for abandoning or relinquishing his former entry. This affidavit must be corroborated by the affidavit of one or more persons having knowledge of the facts relative to the abandonment of the claim or the relinquishment of the former entry and the consideration received therefor, which corroborating affidavit may be executed before any officer authorized to administer oaths and having an official seal.

If an application is presented which has not been executed before a proper officer, or which is not corroborated, or which is otherwise formally defective, you will suspend or reject it, subject to the usual right of appeal. If the application is formally correct and the party makes a showing entitling him to the benefits of this act, you will allow the application, indorsing thereon, and on the notice of allowance, the fact that the same is allowed under the act of February 3, 1911.

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IN REPLY PLEASE REFER TO--Circular No. 7. "M" APB IR

APR 16 1912

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

April 20, 1911.

ACCOUNTS: Bills of Lading.

Registers and Receivers,
United States Surveyors General
and Field Employees.

Sirs:

It appears that blank unnumbered bills of lading have been furnished to different surveying districts on general requisitions for supplies. These bills of lading were undoubtedly sent out by the Department without numbers. All bills of lading should bear a serial number before being sent from this office.

Hereafter, all requisitions for bills of lading must be made the subject of a separate communication. Please return at once all blank bills of lading you may have which bear no serial number stamped by this office, and make requisition for such number of bills of lading as you may require for the season's work.

Very respectfully,

Fred Dennett

Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 9. "A" CBS FB

JUN 19 1911

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

ADDRESS ONLY THE
COMMISSIONER OF THE GENERAL LAND OFFICE

April 21, 1911.

Leave of absence regulations,
November 21, 1908, modified.

Registers and Receivers,
and U. S. Surveyors General.

Gentlemen:

Pursuant to the instructions of the Secretary of the Interior contained in his letter of March 7, 1907, the first unnumbered and the numbered paragraph 5 of the regulations dated November 21, 1908, relating to leaves of absence, are hereby modified, so that when an emergency arises which requires you to leave your post of duty and you do not have time to get a reply to your application, which must come forward either by letter or telegram before the date the leave desired is to commence, you may avail yourselves of such emergency leave without awaiting a reply to your request, but such leave must not exceed a period of two days. When leave for a longer time than two days is desired, you must remain at your post of duty until notice granting the leave is received.

Strict compliance with the leave regulations is directed.

Very respectfully,

Fred Dennett

Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 15. "C" REM JWK

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

MAY 29 1911

May 6, 1911.

Instructions relative to entry under the act of June 11, 1906, of lands withdrawn or reported as coal in character. Official survey required of strips excepted for road purposes.

Registers and Receivers,
United States Land Offices.

Sirs:

For your guidance, and for the purpose of securing uniform action on homestead entries made under the act of June 11, 1906 (34 Stat., 233), for lands which have been withdrawn or reported as coal in character, I have to direct that you proceed on entries made under the said act of June 11, 1906, as on entries made under the general homestead laws for lands without the limits of the national forests. Persons making entry of national forest lands which are restored under the act of June 11, 1906, and which have also been embraced in a coal land withdrawal are required to receive a restricted patent, as provided in the acts of March 3, 1909 (35 Stat., 844), and June 22, 1910 (36 Stat., 583), or to disapprove by proper hearing the alleged coal character of the land.

I have further to call your attention to the fact that national forest lands are being restored to entry under the act of June 11, 1906, from which tracts strips are excepted to be used and retained by the Government for public purposes, either as a public road or for the use of the Forest Service officials. You will require homestead entrymen who have made entry for lands with such reservations to apply to the surveyor general for a special metes and bounds survey of such strips before permitting the submission of final proof. This will be required even though the lands be described by legal subdivisions, in which case it will be necessary to survey only the boundary of such strip, the lines of the legal subdivisions being sufficient for the other sides of the claim.

Very respectfully,

S. V. Proudfit

Assistant Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 17. "P"-HLU FS JMS

JUN 5 1911

DEPARTMENT OF THE INTERIOR.

GENERAL LAND OFFICE,

WASHINGTON, D. C.,

ADDRESS ONLY THE
COMMISSIONER OF THE GENERAL LAND OFFICE

May 19, 1911.

: Instructions re disposition
: of tendered reconveyances of
: patented lands.

Registers and Receivers,
U. S. Land Offices.

Sirs:

It has been brought to the attention of this office that in certain instances deeds of reconveyance or relinquishments are submitted to local land officers by persons holding title to lands BY PATENT from the Government. In such cases the local land officers transmit these deeds or relinquishments, after noting them upon the records of their office. Upon examination of the records in this office it is found that in most instances the lands relinquished or reconveyed are the subject of a suit to cancel patent brought upon the recommendation of this office by the Department of Justice.

In order that the practice in such instances may be uniform, it is directed that whenever relinquishments or deeds of reconveyance of PATENTED lands are tendered to you, that you forward them at once to the proper chief of field division, with a statement of the circumstances under which the deeds or relinquishments were received by you. Under no circumstances, should you make notation of the reconveyance or relinquishment of such PATENTED lands, nor allow any change in the status thereof, until advised by this office.

Very respectfully,

Fred Dennett

Commissioner.

Board of Law Review,

By D. A. MILLRICK.

IN REPLY PLEASE R[redacted]R TO--Circular No. 19. J[redacted] JWD FB

JUN 15 1911

DEPARTMENT OF THE INTERIOR,

GENERAL LAND OFFICE,

WASHINGTON. D. C.,

ADDRESS ONLY THE
COMMISSIONER OF THE GENERAL LAND OFFICE

May 26, 1911.

Fees for certifying transcripts of records, and copies of plats made by applicants.

Registers and Receivers,

and U. S. Surveyors General.

Gentlemen:

As numerous inquiries have been received from officials of subordinate offices as to the fees to be collected under the second paragraph of circular of November 22, 1909, for certified copies of records, you are informed that the same fees must be collected for comparing the copies made by the parties desiring them, and certifying to their correctness, as are collected for copies prepared by your office force and certified by you.

Very respectfully,

Fred Dennett

AK

Commissioner.

Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 20.

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

ADDRESS ONLY THE
COMMISSIONER OF THE GENERAL LAND OFFICE

May 31, 1911.

Registration of notices.

Registers and Receivers,
United States Land Offices.

Gentlemen:

The circular of March 1, 1900 (29 L. D., 649), gives general instructions governing the registration of official letters, but it is observed that said circular is not followed in all local land offices and that many letters are improperly registered. Henceforth, this office will require strict adherence to the regulations, and no registration fee will be paid by the United States unless the letter contains one of the following:

1. Notice of hearing.
2. Notice of decision, whether of your or this office or of the Department, TO THE PARTY ADVERSELY AFFECTED only, where the decision is AN ADJUDICATION OF THE CASE AND THE PARTY HAS THE RIGHT OF APPEAL THEREFROM.
3. Notice of preference right or of other right to be exercised within a certain time, and of requirements of this office and the Department.

Notice of the closing of cases, interlocutory decisions upon motions, orders of suspension and all requirements made by your office of claimants, that do not constitute a final disposition of the case, coupled with the right of appeal, MUST NOT BE REGISTERED; and all instructions or circulars heretofore issued to the contrary are hereby revoked.

It is believed that in many cases personal service may be made upon claimants or their counsel; and it is expected that, in every instance where possible, you will adopt this preferable method of service.

Very respectfully,

Fred Dennett

Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 20.

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

JUN 13 1911

ADDRESS ONLY THE
COMMISSIONER OF THE GENERAL LAND OFFICE

May 31, 1911.

Registration of notices.

Registers and Receivers,
United States Land Offices.

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Very respectfully,

Fred Dennett

Commissioner.

IN REPLY PLEASE REFER TO--"A" 190731 D

(Copy)

DEC 1 1911

DEPARTMENT OF THE INTERIOR.

GENERAL LAND OFFICE.

WASHINGTON. D. C.

ADDRESS ONLY THE
COMMISSIONER OF THE GENERAL LAND OFFICE

November 24, 1911.

Register and Receiver,

Hugo, Colorado.

Gentlemen:

In reply to your letter of the 18th istant, you are advised that circular No. 20, of May 31, 1911, relative to the registration of notices, being an office circular, unapproved by the Department, could not modify any of the Rules of Practice and was not so intended. Therefore you will issue notices under Rule 14 by registered mail as required therein.

You should not retain the record awaiting proof of service of the notice required by Rule 14, nor is it necessary that you subsequently forward to this office the registry return card or unclaimed letter. These may be retained in your office unless called for.

Very respectfully,

Fred Dennett

Commissioner.

IN REPLY PLEASE RE[illegible]R TO--Circular No. 21. [illegible]" RAS AFR DKP

DEPARTMENT OF THE INTERIOR.

GENERAL LAND OFFICE.

WASHINGTON D. C.,

ADDRESS ONLY THE
COMMISSIONER OF THE GENERAL LAND OFFICE

June 7, 1911.

Report as to unappropriated lands called for.

Registers and Receivers,
United States Land Offices.

Gentlemen:

I inclose herewith a blank form upon which you will report as herein directed the status of the unappropriated lands in your district on July 1, 1911, which you will obtain from the township plats, so far as the surveyed lands are concerned, as this office desires as accurate reports as is possible from the records of your office. As to the unsurveyed lands, you will proceed as in the past.

In the first column thereof you will give the names of the counties in or partly in your district containing public lands, OMITTING ALL COUNTIES IN WHICH THERE ARE NO UNAPPROPRIATED LANDS. The area of all lands in your district subject to settlement, entry or filing (which is to be understood as lands not included in a PERMANENT reservation for forestry, Indian or national park purposes), will be reported in the second, third and fourth columns; those surveyed in the second; those unsurveyed in the third; and the aggregate surveyed and unsurveyed in the fourth.

The statement in the eighth column as to the character of the vacant lands, should be as brief as practicable and may frequently be made in one or two words, as MOUNTAINOUS, BROKEN, SWAMPY, GRAZING lands, etc. It will not be necessary to fill in the data indicated in columns five, six, and seven.

You will forward your report by special letter not later than July 10, even though it be necessary for you to suspend the greater part of the other work in your office while making same.

In making your report you will state that the data contained therein was obtained from the township plats and that all land in a permanent state of reservation has been excluded therefrom.

You will promptly acknowledge receipt hereof.

Very respectfully,

S. V. Proudfit

Assistant Commissioner.

IN REPLY PLEASE R[illegible]ER TO--Circular No. 23. "[illegible] APB IR

JUN 20 1911

DEPARTMENT OF THE INTERIOR.

GENERAL LAND OFFICE.

WASHINGTON D. C.,

ADDRESS ONLY THE
COMMISSIONER OF THE GENERAL LAND OFFICE

June 8, 1911.

ACCOUNTS: Depositing balances.

Special Disbursing Agents in the Field.

Sirs:

Treasury regulations require that all disbursing officers shall, as soon as practicable after June 30 and not later than September 30 of each year, deposit, with the office and bank in which such funds are to the credit of the disbursing officer, to the credit of the Treasurer of the United States on account of the particular appropriation to be credited all balances from all appropriations.

In making such deposits special disbursing agents should retain such amounts as may be necessary to make payments of estimated outstanding liabilities for services rendered or expenses incurred to and including June 30, the end of the fiscal year.

An annual appropriation; that is, an appropriation having as a part of its title figures indicative of a particular fiscal year, may not lawfully be used in payment for services rendered or expenses incurred subsequent to June 30 of the last year shown in the title. Credits for amounts deposited should be claimed in the account for the period within which the certificate of deposit is dated.

Please note the following quotations from the Revised Statutes and Treasury circulars:

> All balances of appropriations contained in the annual appropriation bills and made specifically for the services of any fiscal year, and remaining unexpended at the expiration of such fiscal year, shall only be applied to the payment of expenses properly incurred during that year, or to the fulfillment of contracts properly made within that year; and balances not needed for such purpose shall be carried to the surplus fund. (Sec. 3690 R. S.)

> Disbursing officers will not pay accounts or claims against the United States, payable from annual appropriations, which remain outstanding

three months after the close of the fiscal year in which they accrued. Such demands will be adjusted by the Secretary of the Treasury. (Treasury Department Circular No. 133, 1897.)

Deposits to the credit of the Treasurer of the United States on account of repayment of disbursing funds must be made with the office or bank in which such funds are to the credit of the disbursing officer. (Treasury Department Circular No. 125, 1897.)

Unexpended balances of annual appropriations shall be repaid into the Treasury as soon as practicable after the fiscal year for which they were made..... Not later than September 30 of each year, disbursing officers will deposit to the credit of the Treasurer of the United States all unexpended balances of annual appropriations remaining in their possession or standing to their official credit, except those pertaining to the fiscal year then current. (Treasury Department Circular No. 133, 1903.)

The appropriation for "Surveying the public lands, 1911 and 1912," is available for payment of services rendered or expenses incurred from March 4, 1911, to June 30, 1912; the balance therefrom need not, therefore, be deposited until after June 30, 1912.

The following appropriations now current are not annual appropriations, and there is therefore no necessity for depositing balances thereunder at the end of the fiscal year:

"Surveying public lands in Alaska."
"Surveying public lands in Idaho."
"Surveying public lands in Montana."
"Surveying public lands in Utah."
"Deposits by individuals for surveying public lands."
"Completing surveys within railroad land grants."
"Remarking boundary line between Texas and New Mexico."
"Surveying within land grants (reimbursable)."

Very respectfully,

Fred Dennett

Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 24.

JUN 22 1911

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

June 15, 1911.

Oil locations made prior to March 2, 1911.

Registers and Receivers,
United States Land Offices,
and Chiefs of Field Division.

Sirs:

The Secretary in a communication to this office dated May 17, 1911, instructed that the act of March 2, 1911 (Public No. 450), should be brought to the attention of the local officers with the direction that, upon the presentation of ev ery case within the purview of the act, they shall:

> Advise the chiefs of field division, in order that the latter may make such field examination as are advisable or necessary, particularly if the land involved has been embraced in a withdrawal, as to the time when the development work was begun, and be prepared to submit the results, if possible, before entry is allowed. Each such case will be considered and adjudicated upon its record in the regular manner.

Observing that the operation of the act is retrospective only, being confined to locations made prior to the date thereof, you will, upon the presentation of any application for patent affected by the provisions of said act, immediately communicate to the proper chief of field division due and full information thereof, to the end that he may procure to be made such investigations as may be necessary to ascertain the facts concerning the inception and subsequent prosecution of development operations, the extent and character of such works, and any other facts bearing upon and affecting the validity of the claim, including the continuousness and diligence with which development proceeded from the date of inception.

Report made of the results of such examinations will be submitted to this office, upon receipt of which the local officers will be advised as to the action to be taken.

Very respectfully,

Fred Dennett

Commissioner.

634

IN REPLY PLEASE REFER TO--Circular No. 26. "M" APB IR

JUN 27 1911

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

June 19, 1911.

ACCOUNTS: Hearings expenses.

Registers and Receivers,
Chiefs of Field Divisions, and
Special Disbursing Agents.

Sirs:

Beginning July 1, 1911, chiefs of field divisions will forward their "Estimated expenses of hearings" (Form 4-638), in triplicate, direct to this office. The original will be retained in this office; one copy will be returned to the chief of field division with a notation thereon to the effect that there are funds available for the payment of such estimated expenses; and the other copy, bearing a similar notation, will be forwarded to the special disbursing agent who is to pay the expenses of such hearings.

No special agent or other employee will proceed with a hearing until a copy of the schedule, duly approved by this office, has been returned to the chief of field division.

All "Estimated expenses of hearings" to be held during the fiscal year ending June 30, 1912, will show the estimated cost opposite each hearing, instead of in a grand total at the end of the schedule. As a number of schedules of hearings for the quarter ending September 30, 1911, have already been received without the amounts apposite each hearing, it will be necessary to furnish new schedules of these hearings, in triplicate, showing the estimated amount in connection with each case.

When a hearing has been held the chief of field division will report such facts to this office on the form provided (Form 4-162), showing the date such hearing was held and the cost thereof, and will, at the same time, mail a carbon copy of the report to the special disbursing agent interested; or, if the cost of a hearing is not then definitely known, it may be reported at a later date, using the same form, the cost in such cases being reported to this office on the same day that the last voucher in connection with the particular hearing is forwarded to the interested disbursing agent with a carbon copy of the reported cost.

To enable chiefs of field divisions to keep a cost record, all vouchers for expenses in connection with hearings held in any division will be forwarded to the chief thereof for notation either by himself or by an employee whom he shall designate as a hearingsclerk; and special disbursing agents will pay no vouchers from the appropriation for "Expenses of hearings, 1912," or from the allotment for hearings under "Protecting public lands, timber, etc.," until they have been initialed in the blank space beneath the words "Official designation," under the signature of the certifying officer, by the chief of field division or hearings clerk.

Registers and receivers will take up, certify to, and forward all vouchers for taking depositions as soon as possible after receipt of the depositions by them.

Very respectfully,

Fred Dennett

Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 30.

"P" JDY

JUL 13 1911

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

July 1, 1911.

Notice of proceedings special.

Registers and Receivers,

United States Land Offices.

Sirs:

Inasmuch as in most of the land districts, hearings, in cases on which proceedings are directed by reason of special agents' reverse reports, are held only in the winter time, you are directed to at once examine all letters from division "P," and take up for service of notice on the parties all cases in which proceedings have been directed against entries. It is desired that all these notices be served at once, so that if hearing is applied for the special agents may be duly notified and prepared to fix dates for hearings during the coming winter season. Please acknowledge receipt hereof.

Very respectfully,

Fred Dennett

Commissioner.

CIRCULAR No. 31.

ENLARGED HOMESTEADS—ACTS OF FEBRUARY 19, 1909, AND JUNE 17, 1910—INSTRUCTIONS AMENDED.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., July 12, 1911.

Registers and Receivers, United States Land Offices, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming, Arizona, and New Mexico.

GENTLEMEN: The instructions of December 14, 1909 (38 L. D., 361), under the act of February 19, 1909 (35 Stat., 639), providing for an enlarged homestead in the States and Territories above named, except Idaho, and those of July 18, 1910 (39 L. D., 96), under the act of June 17, 1910 (36 Stat., 531), providing for an enlarged homestead in Idaho, are hereby amended by striking out of section 7, of each circular, the last clause of the first paragraph thereof, reading as follows:

* * * nor can an entryman who enters under the general homestead law lands designated as falling within the provisions of this act afterwards enter any lands under this act.

The effect of this amendment is to permit one who has entered, under section 2289, U. S. R. S., lands designated as subject to entry under the enlarged homestead laws, to subsequently make an additional entry under section 3 of said laws in the absence of other objection.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved July 12, 1911.

SAMUEL ADAMS,
Acting Secretary.

3323—11

IN REPLY PLEASE REFER TO--Circular No. 34. FN

JUL 29 1911

DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
WASHINGTON

ADDRESS ONLY THE
COMMISSIONER OF THE GENERAL LAND OFFICE

July 21, 1911.

INSTRUCTIONS: Applications and Entries under Special Acts.

Registers and Receivers,

United States Land Offices.

Sirs:

Referring to circular instructions "B" of this office, furnished you with the circular of June 10, 1908, requiring that notation be made on all Receipts issued of the date of any special act under which the entry in connection with which the Receipt issued is made, the Receiver is hereby directed, beginning with the accounts for the month of July, 1911, to render a separate Abstract of Collections on "Homestead Entries (Original) under the Act of June 22, 1910" (36 Stat., 583), relating to surface rights.

The Register is directed to make notation in the "Remarks" column of Schedule 86-1, opposite the report of the application or entry, of the date of any special act affecting same. The Register will also make like notation opposite the proper application or entry, on any classified schedule upon which the application or entry may be reported.

Very respectfully,

Fred Dennett

Commissioner.

G.L.O. Aug. 4, 1911.

IN REPLY PLEASE REFER TO 164639 "M" FN

1 x

AUG 17 1911

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON August 12, 1911.

ADDRESS ONLY THE
COMMISSIONER OF THE GENERAL LAND OFFICE

ACCOUNTS: RPM; Circular No. 34.

Register and Receiver,

Denver, Colorado.

Sirs:

In reply to your letter of August 4, 1911, inasmuch as the purpose of Circular No. 34, of July 21, 1911, was to enable this office to determine from a separate Abstract of Collections the number of approved Homestead Applications made under the Act of June 22, 1910, in view of the fact that it is also necessary that this office be furnished with a separate Abstract of Collections for Original Homestead Entries under the enlarged homestead act of February 19, 1909, it will be necessary for the Receiver to furnish an Abstract of Collections for "Homestead Entries (Original), Public;" and like separate Abstracts for "Homestead Entries (Original), Act of February 19, 1909;" "Homestead Entries (Original), Public, subject to Act of June 22, 1910;" and "Homestead Entries (Original), Act of February 19, 1909, subject to Act of June 22, 1910."

Very respectfully,

Fred Dennett
Commissioner.

C

IN REPLY PLEASE REFER TO--Circular No. 35.

"A" GCB

FB

JUL 31 1911

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

July 24, 1911.

Requests for circulars to be submitted in duplicate.

Registers and Receivers,

U. S. Land Offices.

Gentlemen:

Hereafter letters from your office calling for circulars and other publications of this Bureau must be submitted in duplicate (marking them "Original" and "Duplicate"), and such requests must not be included in your requisitions for stationery or blanks.

Very respectfully,

Fred Dennett

Commissioner.

339

In reply please refer to--Circular No. 36.

"A" 029

IN REPLY PLEASE REFER TO--Circular No. 37

AUG 3 1911

DEPARTMENT OF THE INTERIOR,

GENERAL LAND OFFICE,

WASHINGTON, D. C.,

ADDRESS ONLY THE COMMISSIONER OF THE GENERAL LAND OFFICE.

July 28, 1911.

: Instructions in matter of investi-
: gations of State and railroad
: selections as to mineral character.

Registers and Receivers,
United States Land Offices,
and Chiefs of Field Divisions.

Sirs:

The following instructions are issued for your guidance:

(1) On and after September 1, 1911, accepted school land indemnity selections, and all other selections under special grants, or grants in quantity to State, except under the Carey Act, as well as all railroad selection lists, will be referred by your office to the Chief of Field Division, for mineral investigation.

(2) For this purpose, Registers and Receivers will immediately, upon the acceptance of any such selections, furnish the Chief of Field Division with the serial number of the list, the date of filing, and the description of the land involved, with a reference to these instructions.

(3) The accepted lists will be forwarded as usual, at the end of each month, with the regular monthly returns, and a notation should be made thereon that the Chief of Field Division has been furnished the necessary data.

(4) The Chief of Field Division, on receipt of such data, will make a case thereof on his docket and have a field examination made to determine the mineral or nonmineral character of said land, including coal and oil and whether the lands are included in a withdrawal or not.

Very respectfully,

Fred Dennett

Commissioner.

acres as a homestead, as provided in the special act of March 3, 1909 (35 Stat., 751), providing for the sale of any part or all of the lands allotted to Indians belonging to the Quapaw Agency, except a tract of not less than forty acres. It was held in that case that the language of the act of March 3, 1909, being clear, it must as to such Indians be regarded as superseding the general law of March 1, 1907, thereby making it necessary for them to retain at least forty acres.

It seems to be immaterial which law is first enacted. If the special act is later, its enactment operates necessarily to restrict the effect of the general act from which it differs. Townsend *v.* Little (109 U. S., 504).

You are accordingly advised that the heirs of a Moses Agreement allottee may not under the later general acts sell all the land embraced in the allotment, but must retain eighty acres as required by the special act of March 8, 1906.

#39
40 LD 215

APPOINTMENTS OF MINERAL SURVEYORS.

Instructions.

Department of the Interior,
General Land Office,
Washington, July 7, 1911.

The Honorable Secretary of the Interior.

Sir: Complying with the suggestion in department letter of June 23, 1911, addressed to U. S. Surveyor-General, Reno, Nevada, copy furnished this office, I submit below proposed amendment to paragraph 4, page 4, Manual of Instructions for the Survey of Mineral Lands of the United States, approved by the department October 6, 1908.

Although neither the letter to the Surveyor-General, nor the decision, therein referred to, of the department, of same date, in the case of mineral surveyor Edward Nissen, 10–108782, treat directly of revocation of appointments, except for cause, and at the expiration of each four years from the date of appointment (the practice would make the four years commence with the acceptance of the bond by this office), the proposed amendment has been prepared so as to authorize removal at any time when a bond becomes subject to renewal under the statute, but not, however, when only new or additional surety is deemed necessary.

I recommend that the regulation in question be so amended that, when amended, it will read as follows:

4. The Surveyors-General have authority to suspend or revoke the appointments of mineral surveyors at any time, for cause, and to

suspend or revoke the appointments at such times as the bonds become subject to renewal under the act of March 2, 1895 (28 Stat., 808), for reasons appearing sufficient to sustain a refusal to appoint in the first instance. The surveyors, however, will be allowed the right of appeal from the action of the surveyor-general in the usual manner. The appeal must be filed with the surveyor-general, who will at once transmit the same, with a full report, to the General Land Office. (20 L. D., 283).

Very respectfully,

S. V. PROUDFIT,
Assistant Commissioner.

Approved July 29, 1911:
SAMUEL ADAMS,
Acting Secretary.

PREPARATION AND DISPOSITION OF PLATS OF SURVEY OF MINING CLAIMS.

INSTRUCTIONS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, July 29, 1911.

UNITED STATES SURVEYORS GENERAL:

The following instructions are issued in pursuance of a plan for preparation and disposition of plats of survey of mining claims, which was approved by the First Assistant Secretary of the Interior June 6, 1911.

The surveyor-general will prepare the original plat on form 4–675. ALL lines clear and sharp in black. All letters and figures clear and sharp in black.

The original plat, so prepared, will be signed and dated by the surveyor-general and forwarded to the General Land Office flat or in tube and unmounted.

The Commissioner will have three photolithographic copies made upon drawing paper, which copies, with the original plat, will be forwarded to the surveyor-general, the duplicate, triplicate, and quadruplicate to be signed by him, and the four plats to be filed and disposed of in the same manner as provided in paragraph 34 of the Mining Regulations, viz: one plat and the original field notes to be retained in the office of the surveyor-general; one copy of the plat to be given the claimant, for posting upon the claim; one plat and a copy of the field notes to be given the claimant, for filing with the proper register, to be finally transmitted by that officer, with other papers in the case, to this office, and one plat to be sent by the sur-

IN REPLY PLEASE REFER TO--Circular No. 44.

AUG 25 1911

DEPARTMENT OF THE INTERIOR,

GENERAL LAND OFFICE,

WASHINGTON, D. C.,

ADDRESS ONLY THE
COMMISSIONER OF THE GENERAL LAND OFFICE

August 17, 1911.

: INSTRUCTIONS. Relative to
: citizenship of married
: women.

Registers and Receivers,

Local Land Offices.

Gentlemen:

Your attention is called to the fact that under the provisions of the act of March 2, 1907 (34 Stat., 1228), the citizenship of the wife follows that of the husband, if married since the passage of the act. Therefore, when a married woman makes proof before your office you should require her to give the date of her marriage, and if her marriage was subsequent to the passage of the act of March 2, 1907 (supra), she should also be required to furnish evidence of her husband's citizenship. If he is native born, her testimony should show that fact, but if naturalized or has declared his intention to become a citizen of the United States, record evidence thereof must be furnished in accordance with circulars of November 6, 1906, and April 13 and November 7, 1907.

Particular attention should be paid to public sale isolated tract cases, for the same rule applies, and it is often impossible to determine if the woman purchaser is married or not.

Very respectfully,

S. V. Proudfit

Assistant Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 44.

Department of the Interior,

General Land Office,

Washington, D. C.,

August 17, 1911.

SUBJECT: INSTRUCTIONS. Relative to citizenship of married women.

Registers and Receivers,

Local Land Offices.

Gentlemen:

Your attention is called to the fact that under the provisions of the act of March 2, 1907 (34 Stat., 1228), the citizenship of the wife follows that of the husband, if married since the passage of the act. Therefore, when a married woman makes proof before your office you should require her to give the date of her marriage, and if her marriage was subsequent to the passage of the act of March 2, 1907 (supra), she should also be required to furnish evidence of her husband's citizenship. If he is native born, her testimony should show that fact, but if naturalized or has declared his intention to become a citizen of the United States, record evidence thereof must be furnished in accordance with circulars of November 6, 1906, and April 12 and November 7, 1907.

Particular attention should be paid to public sale isolated tract cases, for the same rule applies, and it is often impossible to determine if the woman purchaser is married or not.

Very respectfully,

Assistant Commissioner.

[Circular No. 46.]

INSTRUCTIONS RELATING TO CONSTRUCTIVE RESIDENCE.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *August 18, 1911.*

Registers and Receivers, United States Land Offices.

GENTLEMEN: Below is quoted the instructions dated August 4, 1911, from the Acting Secretary of the Interior, in regard to constructive residence during the first six months of entries:

In the matter of proof submitted under the homestead law, it seems that a practice has existed according to entrymen, where residence is begun within six months following the date of the entry, credit for residence beginning with the date of the entry. The result is that where a party takes up an actual residence just at the expiration of the six months following the making of his entry, he is accorded a constructive residence for the intervening six months and is thus permitted to secure title on proof of residence for a period of only four years and six months.

There is clearly no statutory authority recognizing the period of constructive residence referred to. On the contrary, the statute is specific in requiring five years' residence. By section 2291 of the Revised Statutes it is provided that:—

"No certificate, however, shall be given, or patent issued therefor, until the expiration of five years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry; or if he be dead, his widow; or in case of her death, his heirs or devisee; or in case of a widow making such entry, her heirs or devisee, in case of her death, proves by two credible witnesses that he, she, or they have resided upon or cultivated the same for the term of five years immediately succeeding the time of filing the affidavit, and makes affidavit that no part of such land has been alienated, except as provided in section twenty-two hundred and eighty-eight, and that he, she or they will bear true allegiance to the Government of the United States; then, in such case, he, she, or they, if at that time citizens of the United States, shall be entitled to a patent, as in other cases provided by law. That the proof of residence, occupation, or cultivation, the affidavit of nonalienation, and the oath of allegiance, required to be made by section twenty-two hundred and ninety-one of the Revised Statutes, may be made before the judge, or, in his absence, before the clerk, of any court of record of the county and State, or district and territory, in which the lands are situated; and if said lands are situated in any unorganized county, such proof may be made in a similar manner in any adjacent county in said State or Territory; and the proof, affidavit, and oath, when so made, and duly subscribed, shall have the same force and effect as if made before the register or receiver of the proper land-district; and the same shall be transmitted by such judge, or the clerk of his court, to the register and the receiver, with the fee and charges allowed by law to him; and the register and the receiver shall be entitled to the same fees for examining and approving said testimony as are now allowed by law for taking the same. That if any witness making such proof, or the said applicant making such affidavit or oath, swears falsely as to any material matter contained in said proof, affidavits, or oaths, the said false swearing being willful and corrupt, he shall be deemed guilty of perjury, and shall be liable to the same pains and penalties as if he had sworn falsely before the register."

Thereunder a homestead claim could only be initiated by entry, and, as a consequence, it is provided that no patent shall issue until the expiration of five years from date of the entry, and therein it is also plainly required that the party seeking to secure patent shall prove residence for the term of five years.

tracts and he therefore paid said amount and made entry as above stated. He however, disputes the characterization of the tracts as being of more value for agricultural purposes than for the timber thereon, requesting that a hearing be had to determine the true character of the land. The Commissioner held that if the claimant desired to dispute the findings of the appraiser he should apply for reappraisement in accordance with the provisions of paragraph 20 of the said instructions of November 30, 1908.

The Department is of the opinion that the provisions of paragraph 20 do not properly apply to this case. As above stated claimant found no fault with the aggregate valuation placed upon said tracts. The real question at issue is whether this land is subject to entry under the timber and stone law. The appraiser has characterized the land as not subject to entry at all under said act because it is not chiefly valuable for its timber. The claimant on the other hand insists that the land exclusive of the timber has no value at all. If a proper *prima facie* showing were made in support of claimant's contentions, a hearing should be ordered to determine the question at issue. The claimant has not supported his contention by any evidence other than his own affidavit. He will be allowed thirty days from notice hereof within which to file an affidavit corroborated by at least two witnesses having actual knowledge of the character of this land showing that same is chiefly valuable for the timber thereon. If such affidavit be filed within the time allowed, a hearing will be ordered to determine the question. If the above requirement be not complied with the entry will be canceled.

The decision appealed from is modified accordingly and the case is remanded for action as above directed.

#46
40 LD 228

CONSTRUCTIVE RESIDENCE—CREDIT FOR FIRST SIX MONTHS AFTER ENTRY ABOLISHED.

INSTRUCTIONS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., August 18, 1911.

Registers and Receivers, United States Land Offices.

GENTLEMEN: Below is quoted the instructions dated August 4, 1911, from the Acting Secretary of the Interior, in regard to constructive residence during the first six months of entries:

> In the matter of proof submitted under the homestead law, it seems that a practice has existed according to entrymen, where residence is begun within six months following the date of the entry, credit for residence beginning with

the date of the entry. The result is that where a party takes up an actual residence just at the expiration of the six months following the making of his entry, he is accorded a constructive residence for the intervening six months and is thus permitted to secure title on proof of residence for a period of only four years and six months.

There is clearly no statutory authority recognizing the period of constructive residence referred to. On the contrary, the statute is specific in requiring five years' residence. By section 2291 of the Revised Statutes it is provided that:—

"No certificate, however, shall be given, or patent issued therefor, until the expiration of five years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry; or if he be dead, his widow; or in case of her death, his heirs or devisee; or in case of a widow making such entry, her heirs or devisee, in case of her death, proves by two credible witnesses that he, she, or they have resided upon or cultivated the same for the term of five years immediately succeeding the time of filing the affidavit, and makes affidavit that no part of such land has been alienated, except as provided in section twenty-two hundred and eighty-eight, and that he, she or they will bear true allegiance to the Government of the United States; then, in such case, he, she, or they, if at that time citizens of the United States, shall be entitled to a patent, as in other cases provided by law. That the proof of residence, occupation, or cultivation, the affidavit of nonalienation, and the oath of allegiance, required to be made by section twenty-two hundred and ninety-one of the Revised Statutes, may be made before the judge, or, in his absence, before the clerk, of any court of record of the county and State, or district and territory, in which the lands are situated; and if said lands are situated in any unorganized county, such proof may be made in a similar manner in any adjacent county in said State or Territory; and the proof, affidavit, and oath, when so made, and duly subscribed, shall have the same force and effect as if made before the register or receiver of the proper land-district; and the same shall be transmitted by such judge, or the clerk of his court, to the register and the receiver, with the fee and charges allowed by law to him; and the register and the receiver shall be entitled to the same fees for examining and approving said testimony as are now allowed by law for taking the same. That if any witness making such proof, or the said applicant making such affidavit or oath, swears falsely as to any material matter contained in said proof, affidavits, or oaths, the said false swearing being willful and corrupt, he shall be deemed guilty of perjury, and shall be liable to the same pains and penalties as if he had sworn falsely before the register."

Thereunder a homestead claim could only be initiated by entry, and, as a consequence, it is provided that no patent shall issue until the expiration of five years from date of the entry, and therein it is also plainly required that the party seeking to secure patent shall prove residence for the term of five years.

By the third section of the act of May 14, 1880 (21 Stat., 141), it was provided:

"That any settler who has settled, or who shall hereafter settle, on any of the public lands of the United States, whether surveyed or unsurveyed, with the intention of claiming the same under the homestead laws, shall be allowed the same time to file his homestead application and perfect his original entry in the United States land office as is now allowed to settlers under the preemption laws to put their claims on record, and his right shall relate back to the date of settlement, the same as if he settled under the preemption laws."

By this section for the first time the entryman's right was made to relate back to the time of his settlement, and while a party can now claim credit for a period of residence preceding the allowance of his entry, yet the five-year period of residence required by the homestead law is in nowise affected thereby.

The practice of according credit for constructive residence covering the period of six months following the allowance of the entry is, perhaps, due to an erroneous interpretation of section 2297 of the Revised Statutes, by which section it is provided that on proof to the satisfaction of the register and receiver that a person had actually changed his residence or abandoned the land covered by his homestead entry for more than six months at any one time, then, in that event, the land so entered shall revert to the Government. While said section may protect a homesteader from contest for abandonment for a period of six months following the allowance of his entry, it is clearly not authority for according the entryman credit for constructive residence during that period.

After most careful and mature consideration of this matter I feel it my duty to disregard the erroneous practice heretofore obtaining in your office and to direct that you exact of homestead entryman proof of residence for the full period of five years, as required by the statute, before the same can be approved as a basis for the issuance of patent thereon. Because of the long practice heretofore prevailing, I believe it right and proper to give ample time for notice of the contemplated change before putting the same into effect. I have, therefore, to advise you that in all instances where ordinary final proof is submitted under the homestead laws on or after the 1st day of December next, the law as above interpreted be followed.

You will cause all registers and receivers to be immediately advised hereof.

Very respectfully,

SAMUEL ADAMS, *Acting Secretary.*

You are directed to carefully examine the above instructions, and you will be strictly governed thereby.

Very respectfully,

S. V. PROUDFIT,
Assistant Commissioner.

PREPARATION OF TRANSCRIPTS OF TESTIMONY.

INSTRUCTIONS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., August 19, 1911.

REGISTERS AND RECEIVERS,
United States Land Offices.

GENTLEMEN: To avoid the transmission here of incomplete records in contest cases, you will prepare, or cause to be prepared, the transcripts of testimony in litigated matters to show—

1. The names of the parties, date and place of hearing, and name of the officer taking the testimony.

2. The appearance made by either party, whether general or special, and, if represented by an attorney or agent, the post-office address of such representative.

3. The names of the various witnesses called and sworn, by whom called, and the name of the attorney or person conducting the examination both in chief and otherwise.

IN REPLY PLEASE REFER TO--Circular No. 47.

AUG 29 1911

The practice of according credit for constructive residence covering the period of six months following the allowance of the entry is, perhaps, due to an erroneous interpretation of section 2297 of the Revised Statutes, by which section it is provided that on proof to the satisfaction of the register and receiver that a person had actually changed his residence or abandoned the land covered by his homestead entry for more than six months at any one time, then, in that event, the land so entered shall revert to the Government. While said section may protect a homesteader from contest for abandonment for a period of six months following the allowance of his entry, it is clearly not authority for according the entryman credit for constructive residence during that period.

After most careful and mature consideration of this matter I feel it my duty to disregard the erroneous practice heretofore obtaining in your office and to direct that you exact of homestead entryman proof of residence for the full period of five years, as required by the statute, before the same can be approved as a basis for the issuance of patent thereon. Because of the long practice heretofore prevailing, I believe it right and proper to give ample time for notice of the contemplated change before putting the same into effect. I have, therefore, to advise you that in all instances where ordinary final proof is submitted under the homestead laws on or after the 1st day of December next, the law as above interpreted be followed.

You will cause all registers and receivers to be immediately advised hereof.

Very respectfully,

SAMUEL ADAMS, *Acting Secretary.*

You are directed to carefully examine the above instructions, and you will be strictly governed thereby.

Very respectfully, S. V. PROUDFIT,
Assistant Commissioner.

PREPARATION OF TRANSCRIPTS OF TESTIMONY.

INSTRUCTIONS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., August 19, 1911.

REGISTERS AND RECEIVERS,
United States Land Offices.

GENTLEMEN: To avoid the transmission here of incomplete records in contest cases, you will prepare, or cause to be prepared, the transcripts of testimony in litigated matters to show—

1. The names of the parties, date and place of hearing, and name of the officer taking the testimony.

2. The appearance made by either party, whether general or special, and, if represented by an attorney or agent, the post-office address of such representative.

3. The names of the various witnesses called and sworn, by whom called, and the name of the attorney or person conducting the examination both in chief and otherwise.

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4. If any motions or objections are made they should be fully transcribed, giving the name of the party making the same; and the ruling thereon, if any, should be carefully noted.

5. When either party rests his case, such fact should be noted. Any adjournments in the taking of testimony should also be noted.

6. A complete index should accompany each record.

The contest clerk should be carefully instructed in order that records may show just what proceedings were had at the hearing.

Very respectfully,

FRED DENNETT, *Commissioner.*

Approved:

SAMUEL ADAMS, *Acting Secretary.*

BERGMAN ET AL. v. CLARKE (ON REVIEW).

Decided August 24, 1911.

FOREST LIEU SELECTION—ADVERSE OCCUPANCY.

Mere adverse occupancy of land will defeat a forest lieu selection thereof, irrespective of whether the occupant is or is not complaining of such selection, or whether he is entitled to occupy, or whether such occupancy meets the requirements of law or not.

FOREST LIEU SELECTION—CONTEST—CHARGE.

An affidavit of contest against a forest lieu selection, charging that the selected land was occupied at the date of the selection, is not sufficient in the absence of a further charge that the occupancy was adverse to the selector.

CONTEST AGAINST FOREST LIEU SELECTION.

Although there is no statutory right of contest against a forest lieu selection, and no preference right of entry can be secured by the cancellation of the selection as result of a contest, nevertheless, where an affidavit of contest is presented containing every material averment as to the invalidity of the selection, the government may accept the aid of contestant to determine that question.

ADAMS, *First Assistant Secretary:*

This motion is filed by Charles J. Bergman and James Mowat for rehearing of the decision of the Department of April 7, 1911 (40 L. D., 3), affirming a decision of the General Land Office rejecting their separate applications to contest forest lieu selection, made by C. W. Clarke for unsurveyed lands under the act of June 4, 1897 (30 Stat., 36), described as the S. ½ SW. ¼, NE. ¼ SW. ¼, NW. ¼ SE. ¼, Sec. 10, which Bergman applied to contest, and the N. ½ S. ½, Sec. 34, all in T. 15 N., R. 6 W., Olympia, Washington, which Mowat sought to contest.

The ground of contest was the same in both cases, the charge being that the land selected was settled upon and improved at the date of selection and that the nonoccupancy affidavit filed with selector was

IN REPLY PLEASE REFER TO--Circular No. 49.

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AUG 28 1911

DEPARTMENT OF THE INTERIOR,

GENERAL LAND OFFICE,

WASHINGTON, D. C.,

ADDRESS ONLY THE
COMMISSIONER OF THE GENERAL LAND OFFICE

August 19, 1911.

Notice of amendment of paragraph 44, Mining Regulations.

Registers and Receivers,
U. S. Land Offices.

Sirs:

Paragraph 44 of Mining Regulations has been amended under Department approval of August 9, 1911, to read as follows:

44. Before approving for publication any notice of an application for mineral patent, local officers will be particular to see that it includes no land which is embraced in a prior or pending application for patent or entry, or for any land embraced in a rilroad selection, or for which publication is pending or has been made by any other claimants, and if, in their opinion, after investigation, it should appear that notice of a mineral application should not, for this or other reasons, be approved for publication, they should formally reject the same, giving the reasons therefor, and allow the applicant thirty days for appeal to this office under the Rules of Practice."

The paragraph, as amended, will appear in the revised regulations which are in course of preparation.

Very respectfully,

A. C. Brandt

Assistant Commissioner.

Board of Law Review,
By W. B. PUGH.

APR 16 1913

[CIRCULAR NO. 51.]

COMPLETION OF JURATS AND CERTIFICATES ON APPLICATIONS, AFFIDAVITS, AND DEPOSITIONS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., September 6, 1911.

Registers and Receivers, United States Land Offices.

GENTLEMEN: The attention of this office has been recently directed to a loose and careless practice obtaining in some district land offices, as well as in the procedure of many officers authorized to administer oaths in connection with entries of public lands, whereby the jurat or certificate, showing due administration of the requisite oath, is not completed immediately following oath or immediately following completion of testimony by a witness giving his deposition, but is postponed to a more convenient time. It has also been seen that many of these certificates are not completed in such form as to render certain the manner in which the applicant or witness was identified, whether by personal knowledge of the officer by whom the oath was administered, or by the assurance of some other person to said officer well known, or at all. This ambiguity or uncertainty results from the failure of the officer to strike out of the printed form of certificate such portion of the matter therein contained as does not disclose the means of identification actually employed, thus allowing two forms of statement, one of which is the alternative of the other, to remain and appear in said certificate.

While the forms provided for use in the preparation of these certificates sufficiently indicate to an intelligent officer what matter shall remain and what should be eliminated, and while the instructions heretofore promulgated (circular of Mar. 24, 1905, 33 L. D., 480) are clear and specific in terms and positive in their direction, official neglect of and inattention to those important duties continues to be displayed.

The object of this communication is to insist upon a vigilant and intelligent adherence to and enforcement of the regulations in this behalf made. In the future, you will strictly observe the injunction now laid upon you to fully complete each and every application, affidavit, or deposition executed or submitted in your office, by preparing and signing the requisite jurat or certificate immediately following the administration of an oath to an applicant or affiant, or immediately on complete submission of his testimony by a witness giving in his deposition in final proof or other proceeding. The form of certificate should be carefully examined and one of the alternative forms of statement eliminated, so that the certificate, when completed, will distinctly disclose the means by which the identity of the applicant or witness was effected.

IN REPLY PLEASE REFER TO--Circular No. 61.

NOV 20 1911 "F" FRD

DEPARTMENT OF THE INTERIOR,

GENERAL LAND OFFICE,

WASHINGTON D. C.

ADDRESS ONLY THE
COMMISSIONER OF THE GENERAL LAND OFFICE.

November 13, 1911.

: Instructions relative to
: Rule 4, Rules of Practice.

Registers and Receivers,
United States Land Offices.

Sirs:

The following instructions are intended to modify and amend office letter "JWW" of March 3, 1911, and other instructions relating to Rule 4, of the Rules of Practice, only so far as the same relate to claims for public lands which do not occupy the status of entries, and may be passed to patent by the approval of this office or the Department as, for example, state, railroad or lieu selections, etc.

Immediately upon the filing of an application to contest or protest a claim of the character above defined, you will transmit a copy thereof to this office by special letter, referring to serial number, and reporting any application, entry, or other segregation which may be shown by your tract books to be in conflict so contested or protested. In case the contest or protest is subsequently allowed, you will proceed in accordance with the Rules of Practice, transmitting the record with your decision in due time. If, for any reason, you reject the application to contest or protest, you will at the proper time submit further report, transmitting the appeal, if taken, or advising that the case has been closed by you, in order that the record may be cleared in this office.

These instructions are not to be construed as in any manner modifying Rule 1 of Practice, requiring that protests or applications to contest filed by persons not seeking to acquire title to, nor claiming an interest in, the land involved, shall be referred to the Chief of Field Division.

Very respectfully,

Board of Law Review,
By B. K. PARROTT.

Fred Dennett

Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 62.

"P" ACB

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

November 13, 1911.

RETURNS: Transmittal of proofs, etc.

Registers and Receivers,
United States Land Offices.

Sirs:

Since it appears that some local land offices hold applications, proofs, etc., suspended for long periods awaiting additional evidence, reports from Forest officers, etc., you are advised that paragraph 19, Circular of June 10, 1908, as amended by Circular of October 30, 1908, changes the practice that existed prior to July 1, 1908, in certain classes of papers, from transmitting them from timeto time, as filed and acted on, to transmitting them with the returns at the end of the month, and such papers are to be listed on the schedule required under paragraph 86-2.

Withdrawn and closed applications, etc., should be reported on the schedule of "Rejected applications, proofs, etc.", (86-2b), Circular of June 10, 1908, with notation on the papers, and in the "Remarks" column of the schedule "Withdrawn" or "Closed" as the case may be. A rejection slip showing whether appealed or unappealed must be attached to each rejected case transmitted to this office and the same notation made in the "Remarks" column of the schedule.

Your special attention is invited to the following:

A schedule in duplicate of proofs protested by Chiefs of Field Division is required. You will also list on this schedule proofs protested by Forest officers, being careful to note in the "Remarks" column "Protested by Forest Service."

Registers and Receivers will furnish Chiefs of Field Division copies of all final proof notices, and will furnish such copies to Forest Supervisors when the lands involved are within National Forests.

The Forest Service has instructed its field officers that under the joint order of the Secretary of the Interior and the Secretary of Agriculture, signed November 25, 1910, the indorsements to be used by Forest Supervisors, when returning copies of final proof notices to Registers and Receivers, will be either--

IN REPLY PLEASE REFER TO--CIRCULAR NO. 63.

"A" CBS

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

NOV 20 1911

WASHINGTON

November 11, 1911.

Instructions in re requisition for typewriter ribbons.

Point to which supplies are to be shipped to be always indicated on requisition for supplies.

Registers and Receivers,
U. S. Surveyors General,
Chiefs of Field Divisions.

Gentlemen:

Hereafter, when submitting a requisition for typewriter ribbons, you will not only give the make of the machine, but also state the model number and the factory number thereof. This wi ll assist the Department in supplying the proper width of ribbon.

In the requisition form for stationery there is a space left in which to insert the point to which the supplies should be sent, both by mail and freight, and you will please always fill this in when forwarding such requisition.

Very respectfully,

Fred Dennett

Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 64.

"A" JWW

DEPARTMENT OF THE INTERIOR

DEC 1 1911

GENERAL LAND OFFICE

WASHINGTON

November 25, 1911.

Registers and Receivers,
United States Land Offices.

Sirs:

I am sending herewith copies of amended Rules 82 and 83 of the Rules of Practice, and of departmental order of November 16, 1911, with directions that one of each of these copies be posted in a conspicuous place in your offices for the period of sixty days.

Notices of all departmental decisions rendered after December 15, 1911, on appeals from this office, will be given direct to the interested parties and attorneys by mail through the Office of the Assistant Attorney General for the Interior Department, and not through this office and your offices as heretofore. This will make it necessary that the post-office addresses to which these notices are to be sent should be shown by the records of the cases before the Department, and in many cases they are not now so shown. You are therefore urgently instructed to at once, upon the receipt of this letter, report direct to the Secretary and not through this office the names and present post-office addresses of all persons who are interested either as parties or attorneys in any case now pending before the Department on appeal, and also to make a similar report to this office in all cases pending here on appeals from your decisions where appeals have not been taken to the Department. A separate report giving the style of the cause and the number of the entry involved should be made in each individual case, and where you do not know the present addresses, either officially or personally, and can not ascertain them from your records or otherwise, you will report such addresses as "unknown."

Hereafter you will be particularly careful to state the name and address of each person who is interested either as a party or an attorney in any appealed case in all letters transmitting appeals from your decisions, and appeals to the Department which are transmitted to this office by you; and as soon thereafter as any change in such addresses comes to your knowledge you will at once report such change to the Department in cases pending there or to this office in cases pending here.

All motions for rehearing of departmental decisions must be sent to or filed in the Department by the persons making such motions, and they will not be received and forwarded to the Department by either this office or your offices.

Very respectfully,

Fred Dennett

Commissioner.

DEC 28 1911

IN REPLY PLEASE REFER TO--Circular No. 65.

G RWP (COPY)

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

December 15, 1911.

(In the matter of notice
(of allowance of entries
(in school sections.
(Instructions.

Registers and Receivers,
United States Land Offices.

Sirs:

The attention of this office has recently been directed to a loose and careless practice obtaining in some of the district land offices, attaining in some instances to an absolute disregard of the requirements of the circular of instructions of April 30, 1907 (35 L. D., 581), providing for the issuance of notice to the proper State and Territorial authorities, in any case where, upon an ex parte showing of settlement prior to the survey of the lands in the field, an entry is allowed under section 2275, United States Revised Statutes, as amended by act of February 28, 1891 (26 Stat., 796), of lands within a section that has been granted, reserved, or pledged, for the use of common schools.

In the future, you will strictly observe the provisions of the circular mentioned, and upon receipt of this letter, you will report whether or not its requirements have been observed in the past, and if not, your reasons for not doing so.

Very respectfully,

Fred Dennett

Board of Law Review, Commissioner.

By W. B. PUGH.

JAN 5 1912

IN REPLY PLEASE REFER TO CIRCULAR No. 66.
"O" JWB

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

ADDRESS ONLY THE
COMMISSIONER OF THE GENERAL LAND OFFICE

December 30, 1911.

: Elimination of alternative forms
: on applications, jurats, etc.,
: under Circular No. 51.

Registers and Receivers,

U. S. Land Offices.

Gentlemen:

Circular No. 51, dated September 6, 1911, directs that "the form of certificate should be carefully examined and one of the alternative forms of statement ELIMINATED." The preliminary examination of jurats to applications accompanying your September and October returns (allowed since the above order) indicates that many officers have not informed themselves of this order, and that its enforcement is not being insisted upon in every instance.

To save unnecessary correspondence in returning ambiguous jurats, you will examine your December returns before transmission and see that the above circular has been observed in every case.

Very respectfully,

S. V. Proudfit

Assistant Commissioner.

CIRCULAR No. 68.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, January 9, 1912.

Paragraph 42 of Mining Regulations of March 29, 1909, amended.

REGISTERS AND RECEIVERS,
United States Land Offices.

GENTLEMEN: Regulation No. 42 of the Mining Regulations approved March 29, 1909 (37 L. D., 728–786), is hereby amended to read as follows:

42. This sworn statement must be supported by a copy of each location notice, certified by the legal custodian of the record thereof, and also by an abstract of title of each claim certified by the legal custodian of the records of transfers, or by a duly authorized abstracter of titles. The certificate must state that no conveyances affecting, or purporting to affect, the title to the claim or claims appear of record other than those set forth.

Outside of the District of Alaska, the application for patent will be received and filed if the abstract is brought down to a day reasonably near the date of the presentation of the application and shows full title in the applicant who must as soon as practicable thereafter file a supplemental abstract brought down so as to include the date of the filing of the application. Publication will not be ordered until the showing as to title is thus completed and the local land officers are satisfied that full title was in the applicant on the day of the filing of the application.

In the District of Alaska the application for patent will be received and filed and the order for publication issued if the abstract showing full title in the applicant is brought down to a day reasonably near the date of the presentation of the application. A supplemental abstract of title brought down so as to include the date of the filing of the application must be furnished prior to the expiration of the 60-day period of publication.

No certificate from an abstracter or abstract company will be accepted until approval by the Commissioner of the General Land Office of a favorable report of the chief of field division, or United States district attorney whose division or district embraces the lands in question, as to the reliability and responsibility of such abstracter or company.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved January 9, 1912.

SAMUEL ADAMS,
Acting Secretary.

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See Circ 117

CIRCULAR No. 71.

ISOLATED TRACTS—SECTION 2455, REVISED STATUTES, AS AMENDED BY ACT OF JUNE 27, 1906 (34 STATS., 517).

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., January 19, 1912.

Registers and Receivers, United States Land Offices.

SIRS: The sale of isolated tracts of public lands outside of the area in the State of Nebraska described in the act of March 2, 1907 (34 Stats., 1224), is authorized by the provisions of the act of June 27, 1906 (34 Stats., 517), amending section 2455 of the Revised Statutes.

1. Applications to have isolated tracts ordered into market must be filed with the register and receiver of the local land office in the district wherein the lands are situated.

2. Applicants must show by their affidavits, corroborated by at least two witnesses, that the land contains no salines, coal, or other minerals; the amount, kind, and value of timber or stone thereon, if any; whether the land is occupied, and if so the nature of the occupancy; for what purpose the land is chiefly valuable; why it is desired that same be sold; that applicant desires to purchase the land for his own individual use and actual occupation and not for speculative purposes, and that he has not heretofore purchased, under section 2455, Revised Statutes, or the amendments thereto, isolated tracts, the area of which, when added to the area now applied for, will exceed approximately 160 acres; and that he is a citizen of the United States, or has declared his intention to become such. If applicant has heretofore purchased lands under the provisions of the acts relating to isolated tracts, same must be described in the application by subdivision, section, township, and range.

3. The affidavits of applicants to have isolated tracts ordered into market, and of their corroborating witnesses, may be executed before any officer having a seal and authorized to administer oaths in the county or land district in which the tracts described in the applications are situated.

4. The officer before whom such affidavits are executed will cause each applicant and his witnesses to fully answer the questions contained upon the accompanying form and, after the answers to the questions therein contained have been reduced to writing, to sign and swear to same before him.

5. No sale will be authorized upon the application of a person who has purchased under section 2455, Revised Statutes, or the amendments thereto, any lands, the area of which, when added to the area applied for, shall exceed approximately 160 acres.

6. Only one tract may be included in an application for sale, and no tract exceeding approximately 160 acres in area will be ordered into the market.

7. No tract of land will be deemed isolated and ordered into the market unless, at the time application is filed, the said tract has been subject to homestead entry for at least two years after the surrounding lands have been entered, filed upon, or sold by the Government, except in cases where some extraordinary reason is advanced sufficient, in the opinion of the Commissioner of the General Land Office, to warrant waiving this restriction.

8. The local officers will on receipt of applications note same upon the tract books of their office, and if the applications are not properly executed, or not corroborated, they will reject the same subject to the right of appeal. Applications found to be properly executed and corroborated will be disposed of as follows: (1) If all, or any portion, of the land applied for is not subject to disposition under the provisions of paragraph 7, or by reason of some prior appropriation of the land, the application will be forwarded to the General Land Office with the monthly returns, accompanied by a report as to the status of the land applied for and the surrounding lands, and any other objection to the offering known to the local officers. Upon determining what portion, if any, of the lands applied for should be ordered into the market, the Commissioner of the General Land Office will call upon the local officers and the Chief of Field Division for the report, as next provided for, concerning the value of the land. (2) If all of the land applied for is vacant and not withdrawn or otherwise reserved from such disposition, and the status of the surrounding lands is such that a sale might properly be ordered under paragraph 7, the local officers, after noting the application on their records, will promptly forward the same to the Chief of Field Division for report as to the value of the land and any objection he may wish to interpose to the sale, and the register will make proper notations on his schedule of serial numbers in the event the application is not returned in time to be forwarded with the returns for the month in which it is filed. Upon receipt of the application from the Chief of Field Division with his report thereon, the local officers will attach their report as to the status of the land and that surrounding, the value of the land applied for, if they have any knowledge concerning the same, and any objection to the sale known to them, and forward the papers to the General Land Office with the returns for the current month.

9. An application for sale under these instructions will not segregate the land from entry or other disposal, for such lands may be entered at any time prior to the receipt in the local land office of the letter authorizing the sale and its notation of record. Should all of the land applied for be entered or filed upon while the application for sale is in the hands of the Chief of Field Division, the local officers will so advise him and request the return of the application for forwarding to the General Land Office. Likewise, should any or all of the land be entered or filed upon while the application for sale is pending before the General Land Office, the local officers will so report by special letter.

10. Upon receipt of letter authorizing the sale, the local officers will note thereon the time when it was received and at once examine the records to see whether the tract, or any part thereof, has been entered. They will note on the tract book, opposite such portion of the tract as is found to be clear, that sale has been authorized, giving the date of the letter. Thereupon the land will be considered segregated for the purpose of sale.

If the examination of the records shows that all of the tract has been entered or filed upon, the local officers will not promulgate the letter authorizing the sale, but will report the facts to the General Land Office, whereupon the letter authorizing the sale will be revoked. If a part of the land has been entered they will so report and proceed as provided below as to the remainder.

The local officers will prepare a notice for publication on the form hereinafter given, describing the land found to be unentered, and fixing a date for the sale, which date must be far enough in advance to afford ample time for publication of the notice, and for the affidavit of the publisher to be filed in the local land office prior to the date of the sale. The register will also designate a newspaper as published nearest to the land described in the notice. The notice will be sent to the applicant with instructions that he must publish the same at his expense in the newspaper designated by the register. Payment for publication must be made by applicant directly to the publisher, and in case the money for publication is transmitted to the receiver, he must issue receipt therefor, and immediately return the money to the applicant by his official check, with instructions to arrange for the publication of the notice as hereinbefore provided.

If on the day set for the sale the affidavit of the publisher, showing proper publication, has not been filed in the local land office, the register and receiver will report that fact to this office, and will not proceed with the sale.

11. Notice must be published once a week for five consecutive weeks (or thirty consecutive days, if in a daily paper) immediately prior to the date of sale, but a sufficient time should elapse between the date of last publication and date of sale to enable the affidavit of the publisher to be filed in the local land office. The notice must be published in the paper designated by the register as nearest the land described in the application. The register and receiver will cause a similar notice to be posted in the local land office, such notice to remain posted during the entire period of publication. The publisher of the newspaper must file in the local land office, prior to the date fixed for the sale, evidence that publication has been had for the required period, which evidence may consist of the affidavit of the publisher, accompanied by a copy of the notice published.

12. At the time and place fixed for the sale the register or receiver will read the notice of sale and allow all qualified persons an opportunity to bid. Bids may be made through an agent personally present at the sale, as well as by the bidder in person. The register or receiver conducting the sale will keep a record showing the names of the bidders and the amount bid by each. Such record will be transmitted to this office with the other papers in the case.

The sale will be kept open for one hour after the time mentioned in the published notice. At the expiration of the hour, and after all

bids have been offered, the local officers will declare the sale closed, and announce the name of the highest bidder, who will be declared the purchaser, and he must immediately deposit the amount bid by him with the receiver, and within ten days thereafter furnish evidence of citizenship, or of declaration of intention to become a citizen, nonmineral and nonsaline affidavit, Form 4–062, or nonsaline affidavit, Form 4–062*a*, as the case may require. Upon receipt of the proof, and payment having been made for the lands, the local officers will issue the proper final papers.

13. No lands will be sold at less than the price fixed by law, nor at less than $1.25 per acre. Should any of the lands offered be not sold, the same will not be regarded as subject to private entry unless located in the State of Missouri (act of March 2, 1889, 25 Stats., 854), but may again be offered for sale in the manner herein provided.

14. After each offering where the lands offered are *not* sold, the local officers will report by letter to the General Land Office. No report by letter will be made when the offering results in a sale, but the local officers will issue cash papers as in ordinary cash entries, noting thereon the date of the letter authorizing the offering, and report the same in their current monthly returns. With the papers must also be forwarded the affidavit of publisher showing due publication, and the register's certificate of posting.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved January 19, 1912:
SAMUEL ADAMS,
First Assistant Secretary.

AN ACT To amend an act entitled "An act to amend section twenty-four hundred and fifty-five of the Revised Statutes of the United States," approved February twenty-sixth, eighteen hundred and ninety-five.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act of February twenty-sixth, eighteen hundred and ninety-five, entitled "An act to amend section twenty-four hundred and fifty-five of the Revised Statutes of the United States," be, and the same is hereby, amended so as to read as follows:

"It shall be lawful for the Commissioner of the General Land Office to order into market and sell, at public auction at the land office of the district in which the land is situated, for not less than one dollar and twenty-five cents per acre, any isolated or disconnected tract or parcel of the public domain not exceeding one quarter section which, in his judgment, it would be proper to expose for sale after at least thirty days' notice by the land officers of the district in which such land may be situated: *Provided*, That this act shall not defeat any vested right which has already attached under any pending entry or location."

Approved, June 27, 1906 (34 Stats., 517).

[Form 4–008B.]

APPLICATION FOR SALE OF ISOLATED OR DISCONNECTED TRACTS.

DEPARTMENT OF THE INTERIOR,
UNITED STATES LAND OFFICE,

_____,
_____, 19_____

To the Commissioner of the General Land Office:

_____, whose post-office address is_____ respectfully requests that the _____ of Section_____, Township _____, Range _____, be ordered into market and sold under the act of June 27, 1906 (34 Stats., 517), at public auction, the same having been subject to homestead entry for at least two years after the surrounding lands were entered, filed upon, or sold by the Government.

Applicant states that he _____
(Insert statement that affiant is a native-born or naturalized citizen, or
_____
has declared intention to become such, as the case may be.)
citizen of the United States; that this land contains no salines, coal, or other minerals, and no stone except_____
_____; that there is no timber thereon except _____ trees of the _____ species, ranging from _____ inches to _____ feet in diameter, and aggregating about _____ feet stumpage measure, of the estimated value of $_____; that the land is not occupied except by _____ of _____ post office, who occupies and uses it for the purpose of _____, but does not claim the right of occupancy under any of the public-land laws; that the land is chiefly valuable for _____, and that applicant desires to purchase same for his own individual use and actual occupation for the purpose of _____, and not for speculative purposes; that he has not heretofore purchased public lands sold as isolated tracts, the area of which when added to the area herein applied for will exceed approximately 160 acres. The lands heretofore purchased by him under said act are described as follows:

_____
_____
_____

If this request is granted applicant agrees to have notice published at his expense in the newspaper designated by the register.

(Applicant will answer fully the following questions:)

Question 1. Are you the owner of land adjoining the tract above described? If so, describe the land by section, township, and range.

Answer _____

Question 2. To what use do you intend to put the isolated tract above described should you purchase same?

Answer _____

Question 3. If you are not the owner of adjoining land, do you intend to reside upon or cultivate the isolated tract?

Answer _____

Question 4. Have you been requested by anyone to apply for the ordering of the tract into market? If so, by whom?

Answer _____

Question 5. Are you acting as agent for any person or persons or directly or indirectly for or in behalf of any person other than yourself in making said application?

Answer _____

Question 6. Do you intend to appear at the sale of said tract if ordered, and bid for same?

Answer _____

Question 7. Have you any agreement or understanding, expressed or implied, with any other person or persons that you are to bid upon or purchase the land for them or in their behalf, or have you agreed to absent yourself from the sale or refrain from bidding so that they may acquire title to the land?

Answer _____

_____
(Sign here with full Christian name.)

We are personally acquainted with the above-named applicant and the land described by him, and the statements hereinbefore made are true to the best of our knowledge and belief.

_____
(Sign here with full Christian name.)

_____
(Sign here with full Christian name.)

I certify that the foregoing application and corroborative statement were read to or by the above-named applicant and witnesses, in my presence, before affiants affixed their signatures thereto; that affiants are to me personally known (or have been satisfactorily identified before me by _____); that I verily believe affiants to be credible persons, and the identical persons hereinbefore described; that said affidavits were duly subscribed and sworn to before me, at my office, at _____, this _____ day of _____, 19__.

_____

_____
(Official designation of officer.)

[Forms 4–348c and 4–348d.]

NOTICE FOR PUBLICATION—ISOLATED TRACT.

PUBLIC LAND SALE.

DEPARTMENT OF THE INTERIOR,
UNITED STATES LAND OFFICE,
_____,
_____, 19__.

Notice is hereby given that, as directed by the Commissioner of the General Land Office, under the provisions of the act of Congress approved June 27, 1906 (34 Stats., 517), pursuant to the application of _____ Serial No. ____, we will offer at public sale to the highest bidder, but at not less than $_____ per acre, at __ o'clock __ m., on the _____ day of _____ next, at this office, the following tract of land:_____
_____
_____

Any persons claiming adversely the above-described land are advised to file their claims or objections on or before the time designated for sale.

_____,
Register.

_____,
Receiver.

○

IN REPLY PLEASE REFER TO--CIRCULAR No. 74.

"A" - JWD

FEB 5 1912

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

January 25, 1912.

: Preparation of diagrams
: showing vacant lands.

Registers and Receivers,

United States Land Offices.

Gentlemen:

Please advise this office as soon as practicable as to the percentage of vacant land diagrams made for a fee of $1.00, in accordance with the regulations, which require consideration of one or more supplemental plats in connection therewith, and if so, what, in your opinion, would be a reasonable additional charge for diagrams prepared under these conditions.

Very respectfully,

Fred Dennett

Commissioner.

1-25 SEH

609

IN REPLY PLEASE REFER TO--Circular No. 75.

"C" McD

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

January 25, 1912.

Amendment of regulations relating to the sale of isolated tracts.

Registers and Receivers,
United States Land Offices.

Sirs:

Under separate cover there has been sent you a supply of Circular No. 71, amending the regulations relating to the sale of isolated tracts.

The changes made will be found in paragraphs 6, 7, 8, 9, and 10. The application blank (form 4-008b) and the notice of sale (forms 4-348c and 4-348d) have been amended to comply with the present regulations, and a supply of the new blanks will be sent you at once, upon receipt of which you will destroy all old blanks on hand.

You will observe that hereafter only one tract may be included in an application for sale (paragraph 6); that no tract will be deemed isolated and ordered into the market unless, at the time the application is filed, the tract has been subject to homestead entry for at least two years after the surrounding lands have been entered, filed upon, or sold by the Government (paragraph 7); that all applications, with certain stated exceptions, must be forwarded by you to the chief of the proper field division for report as to the value of the land, etc., and that you must thereafter attach your report as to the status of the land and the value thereof, if you have any knowledge concerning the same (paragraph 8).

In event an application is not returned from the Chief of Field Division in time to be forwarded with the returns for the month in which it is filed, you will make proper notations on the Schedule of Serial Numbers, giving the name of the applicant.

Respectfully,

Fred Dennett

Commissioner.

IN REPLY PLEASE REFER TO "A" 211149

FEB 19 1912

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON, D. C.

ADDRESS ONLY THE
COMMISSIONER OF THE GENERAL LAND OFFICE

February 13, 1912.

In re blank forms

Register and Receiver,

Denver, Colorado.

Gentlemen:

Referring to your letter of the 7th inst., acknowledging receipt of circular No. 75, relating to the amendment of regulations governing the sale of isolated tracts, and stating that you have not as yet had the blank forms, you are advised that the forms were mailed to you on or about the same day the circulars were forwarded, and you no doubt have received them by this time.

Very respectfully,

Fred Dennett.

Commissioner.

GCB 2-13

IN REPLY PLEASE REFER TO--CIRCULAR No. 76.

"C" McD FEB 8 1912

DEPARTMENT OF THE INTERIOR,

GENERAL LAND OFFICE,

WASHINGTON. D. C.

ADDRESS ONLY THE
COMMISSIONER OF THE GENERAL LAND OFFICE

January 30, 1912.

Revised blank form--
Application for
amendment.

Registers and Receivers,

United States Land Offices.

Sirs:

Under separate cover there has been sent you a supply of revised Form 4-005, "Application for amendment," approved by the Secretary of the Interior January 18, 1912.

You will immediately destroy all of the old blanks now on hand.

If the number sent you is not sufficient to last until your next semiannual requisition is filled, you may make requisition for a further supply.

In order that all applications for amendment hereafter filed may contain the required evidence, you will send several copies of the revised blank to each official in your district qualified to take acknowledgments of claimants' affidavits.

Respectfully,

Fred Dennett

Commissioner.

#18
40 LD 398

NOTATION OF RIGHTS OF WAY ON ENTRY PAPERS.

INSTRUCTIONS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, February 2, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices.

SIRS: Some misapprehension having arisen as to the proper construction of departmental circulars of November 3, 1909 (38 L. D., 284), and January 19, 1910 (38 L. D., 399), governing notation of rights of way on entry papers, you are now instructed that such notations should be made only where your records show that the land involved, or some part of it, is covered by an *approved* application for right of way. In this connection, attention is directed to the decision of the United States Supreme Court in the case of Minneapolis, St. Paul and Sault Sainte Marie Railway Company *v.* Doughty (208 U. S., 251). Applicants to enter public lands that are affected by a mere pending application for right of way, should be *verbally* informed thereof, and given all necessary information as to the character and extent of the project embraced by the right-of-way application; and, further, that they must take the land subject to whatever right may have attached thereto under the right-of-way application, and at the full area of the subdivisions entered, irrespective of the questions of priority or damages, these being questions for the courts to determine.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved:
SAMUEL ADAMS,
First Assistant Secretary.

RECLAMATION ENTRY—CANCELLATION OR RELINQUISHMENT—WATER RIGHT PAYMENTS.

CIRCULAR.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, February 2, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices.

SIRS: Paragraph 61 of the circular of May 31, 1910 (38 L. D., 620), is hereby amended to read as follows:

If any entry subject to the Reclamation Act of June 17, 1902 (32 Stat., 388), is canceled or relinquished, the payment for water-right charges already made

and not assigned in writing to a prospective or succeeding entryman under the provisions of paragraph 62 of the circular of May 31, 1910, are forfeited. All water-right charges which remain unpaid are canceled by the relinquishment or cancellation of the entry except as provided by the specific provisions of public notices applicable to particular projects.

Any person who thereafter enters the same land must, in the absence of an assignment in writing or public notice to the contrary, pay the water-right charges as if the land had never been previously entered. No credit will be allowed in such cases for the payment made by the prior entryman, and the new entryman must pay at the time of filing his homestead application and water-right application, such charges for building and operation and maintenance as are required by the public notice in force at the time on the particular project.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved:
SAMUEL ADAMS,
First Assistant Secretary.

HOMESTEAD ENTRY—FEES FOR EXCESS OVER EIGHTY ACRES.

INSTRUCTIONS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., February 2, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices.

SIRS: Your attention is called to departmental decision in the case of Sorli *v.* Berg (40 L. D., 259), which enforces section 2289, R. S., forbidding homestead entries by any person who is the proprietor of more than 160 acres, even though the excess be less than one acre. It follows that the same construction will, when applied to section 2290, R. S., overrule the departmental decision in the case of Alcide Guidney (8 Copp's Land Owner, 157), which formed the basis of the present rule for the collection of a fee of only $5 where the application embraced less than 81 acres. This new rule will require the payment of a fee of $10 under all applications for all homestead entries which embrace more than 80 acres, and you are, therefore, directed to require payments accordingly under all applications hereafter presented.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved:
SAMUEL ADAMS,
First Assistant Secretary.

IN REPLY PLEASE REFER TO--Circular No. 79.

FEB 13 1912 "AB DKP

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

February 8, 1912.

: Instructions under the acts
: of March 3, 1909 (35 Stat.,
: 844), and June 22, 1910 (36
: Stat., 583).

Registers and Receivers,
United States Land Offices.

Sirs:

The purpose of this circular is to impress upon you the necessity for a careful review of the circulars of September 7, 1909 (38 L. D., 183), and September 8, 1910 (39 L. D., 179), relating respectively to the acts of March 3, 1909 ,and June 22, 1910, providing for the granting of surface title to coal lands, it being apparent that there exists considerable misunderstanding as to the effect and distinguishing features of said acts.

The following general suggestions will be found helpful:

(1) Where an entry, selection, or location is made upon lands subsequently classified, claimed, or reported as being valuable for coal, the entryman, selector, or locator, having submitted satisfactory proof of compliance with the laws under which he claims, may elect, upon the form provided, to accept a patent containing a reservation to the United States of all coal in the lands. (See circular of September 7, 1909.)

(2) Where an entry, selection, or location was made prior to June 22, 1910, upon lands which at the time of the initiation of such entry, selection, or location, were classified, claimed, or reported as valuable for coal, the claimant may perfect title under the provisions of the law under which his claim was initiated, but shall receive the limited patent provided for by sec. 3 of the act of June 22, 1910. There is no right of election in such cases and you should not accept elections as in case of entries coming within the provisions of the act of March 3, 1909. The procedure in cases of this kind is set out in paragraph 3 b, of the circular of September 8, 1910. The claimant may join

issue as to the character of the land or may waive that right. Should he file such waiver or default after proper notice, the limited patent will issue in the absence of other objection, and in cases where the right to dispute the alleged coal character of the land is so waived or default made, upon the submission of satisfactory proof you should make proper notations on the final certificate and the records of your office.

(3) Since June 22, 1910, claims may be initiated with a view to acquiring surface title to lands which have been withdrawn or classified as coal lands or are valuable for coal, only in accordance with the provisions of the Act of that date. (See paragraph 3 a, circular of September 8, 1910.)

It is believed that the foregoing, if carefully read in connection with the circulars referred to, will render it easy to determine whether the disposition of a case, where the coal question is involved, is governed by the act of March 3, 1909, the act of June 22, 1910, or the proviso to sec. 1 of the latter act, and thus avoid the delay incurred by the necessity for supplemental action by this office.

Very respectfully,

Fred Dennett

Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 80.

"A" JWW

FEB 19 1912

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

ADDRESS ONLY THE
COMMISSIONER OF THE GENERAL LAND OFFICE

February 2, 1912.

Homestead Fees.

Registers and Receivers,

United States Land Offices.

Sirs:

Your attention is called to departmental decision in the case of of Sorli vs. Berg (40 L. D., 259), which enforces Section 2289, R. S., forbidding homestead entries by any person who is the proprietor of more than 160 acres, even though the excess be less than one acre. It follows that the same construction will, when applied to Section 2290, R. S., overrule the departmental decision in the case of Alcide Guidney (8 Copp's Land-Owner, 157), which formed the basis of the present rule for the collection of a fee of only $5 where the application embraced less than 81 acres. This new rule will require the payment of a fee of $10 under all applications for all homestead entries which embrace more than 80 acres, and you are, therefore, directed to require payments accordingly under all applications hereafter presented.

Very respectfully,

Fred Dennett

Commissioner.

Approved:
February 2, 1912.

Samuel Adams

First Assistant Secretary.

In REPLY PLEASE REFER TO--Circular No. 80.

"A" IWW

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

February 8, 1912.

Registers and Receivers,

United States Land Offices.

Sirs:

Your attention is called to departmental decision in the case of Boris Te. Berg (40 L. D., 359), which enforces Section 2289, R. S., forbidding homestead entries by any person who is the proprietor of more than 160 acres, even though the excess be less than one acre. It follows that the same construction will, when applied to Section 2290, R. S., overrule the departmental decision in the case of Alaida Goldney (8 Copp's Land-Owner, 197), which formed the basis of the present rule for the collection of a fee of only $5 where the application embraced less than 81 acres. This new rule will require the payment of a fee of $10 under all applications for all homestead entries which embrace more than 80 acres, and you are, therefore, directed to require fees accordingly under all applications hereafter presented.

Very respectfully,

Approved:

February 8, 1912.

First Assistant Secretary.

MAR 2 1912

IN REPLY PLEASE REFER TO--Circular No. 81.

"C" McD.

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

February 13, 1912.

: Conditional relinquishments.

Registers and Receivers,
United States Land Offices.

Sirs:

By direction of the Secretary of the Interior you are advised that the practice now prevailing in some local offices of allowing the filing of a conditional relinquishment of an entry or claim subject to the allowance of an accompanying application for the land involved must be discontinued.

Accordingly you will advise all such parties that hereafter (except as noted below) the filing of a relinquishment of an entry or claim will be treated as absolute, the cancellation thereof at once noted of record, and the tract embraced therein will be subject to disposition under existing laws.

914

The only exceptions to this rule are relinquishments of approved rights of way, conditioned upon the approval of a subsequent application, filed as an amendment to the approved right of way, or as an independent application, but conflicting in whole or in part with the approved right of way. Such relinquishments should not be noted until you are advised of their acceptance by this office.

Many applications for amendment of entries are accompanied by relinquishments of the tracts sought to be excluded. This is unnecessary, and you should advise such applicants that if the relinquishment is filed it is your duty to at once make the same of record.

Respectfully,

Fred Dennett

Commissioner

MBA

IN REPLY PLEASE REFER TO--Circular No. 84.

"A" FLC

MAR 2 1912

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

February 20, 1912.

: Call for report as to maximum
: rate for publication under
: Sec. 89 of Mining Regulations.

Registers and Receivers,
United States Land Offices
(In Mineral Districts).

Gentlemen:

Paragraph I of Sec. 89 of the present Mining Regulations reads as follows:

> "Where a daily newspaper is designated, the charge shall not exceed seven dollars for each ten lines of space occupied, and where a weekly newspaper is designated as a medium of publication, five dollars for the same space will be allowed."

217

This office has under consideration the question as to whether or not there should be a change or modification of said paragraph; in other words, whether the maximum rate of charges for publication as mentioned in said Paragraph I should be returned, or whether it should be reduced.

Having this in mind, you are directed to make a report to this office showing in what newspapers in your land district mining notices are published, the rate charged therefor, and the rate charged by the same papers for other legal notices.

Very respectfully,

Fred Dennett

Commissioner.

2-20 TM

Ans. Mch. 15th

IN REPLY PLEASE REFER TO--Circular No. 84.

"A" 2LC

MAR 2 1912

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

February 20, 1912.

: Call for report as to maximum
: rate for publication under
: Sec. 89 of Mining Regulations.

Registers and Receivers,
United States Land Offices
(In Mineral Districts).

Gentlemen:

Paragraph 1 of Sec. 89 of the present Mining Regulations reads as follows:

"Where a daily newspaper is designated, the charge shall not exceed seven dollars for each ten lines of space occupied, and where a weekly newspaper is designated as a medium of publication, five dollars for the same space will be allowed."

This office has under consideration the question as to whether or not there should be a change or modification of said paragraph; in other words, whether the maximum rate of charges for publication as mentioned in said Paragraph 1 should be returned, or whether it should be reduced.

During this in mind, you are directed to make a report to this office showing in what newspapers in your land district mining notices are published, the rate charged therefor, and the rate charged by the same papers for other legal notices.

Very respectfully,

Commissioner.

2-20 TH

IN REPLY PLEASE REFER TO--Circular No. 86.

"FS" HLU

MAR 14 1912

DEPARTMENT OF THE INTERIOR.

GENERAL LAND OFFICE,

WASHINGTON D. C.

ADDRESS ONLY THE
COMMISSIONER OF THE GENERAL LAND OFFICE

March 5, 1912.

Revoking "Instructions in matter of investigations of State and railroad selections as to mineral character."

Registers and Receivers,
U. S. Land Offices,
and Chiefs of Field Divisions.

Sirs:

The circular of instructions addressed to you dated July 28, 1911, entitled "Instructions in matter of investigations of State and railroad selections as to mineral character," is hereby revoked, effective April 1, 1912, and it will not be necessary after that date for Registers and Receivers to advise the proper Chief of Field Division of the acceptance of any such selections or to furnish him with any of the data relating thereto as is required under said circular.

Instructions as to the investigation of these selections will be issued from this office to proper Chief of Field in each Division case listed for investigation.

Respectfully,

Fred Dennett

3-4 HCG

Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 87.

"M" FTL

1 Inc.

MAR 18 1912

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

MAR 18 1912

March 6, 1912.

RETURNS: Transmittal of timber and stone applications.

Registers and Receivers,

United States Land Offices.

Sirs:

Hereafter one copy of each timber and stone application must be transmitted with the returns for the month during which the same is accepted, with the status plainly shown thereon. The other copy should be forwarded to the chief of field division for appraisal, after complete notation on the Serial Number Register, which will suffice for the record thereof until return of the appraisement made by the chief of field division, with which appraisement the duplicate copy should be retransmitted to the district land office and acted on in accordance with the regulations of November 30, 1908, as revised August 22, 1911.

Where applicants to purchase under the timber and stone law fail to make proof and payment within the time provided therefor under the law and regulations, there should be forwarded to the General Land Office, with the returns for the month within which the time for making payment or filing of proof expires, all papers relating to the application, with a short letter report attached

thereto of the fact that no proof or payment has been made thereon, observing paragraph 81, Circular June 10, 1908. Notation should be made on the Serial Number Register and on the tract book "(date) payment not made, closed," or "(date) no proof filed, closed." On the Serial Number Register should appear the additional notation "all papers forwarded to G. L. O. (date of transmittal and month's returns)." A line should be drawn through the notation on the plats. The serial number of the closed timber and stone application must be reported on the classified schedule of rejected and closed cases, for the month transmitted, with notation in the remarks column "payment not made, closed," or "no proof filed, closed."

Upon suspension or rejection of a timber and stone application, both copies thereof should be retained in the district land office during the period allowed for perfection of same or for appeal. If appeal is filed or the application is finally rejected, both copies should be transmitted with the returns for the month during which appealed or finally rejected.

Please acknowledge receipt hereof on inclosed card.

Very respectfully,

Fred Dennett

3-6 MB

Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 88.

"A" 217648

MAR 18 1912

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

March 7, 1912.

Relative to marring and scratching of furniture in Federal buildings.

U. S. Surveyors General,
Registers and Receivers,
and Chiefs of Field Divisions.

Gentlemen:

Your attention is called to the following:

TREASURY DEPARTMENT,
Washington, March 2, 1912.

The Honorable
The Secretary of the Interior,
Washington, D. C.

Sir:

By direction of the Secretary, I have the honor to invite your attention to a complaint recently received from the Custodian of the new Post-Office at Cleveland, Ohio, as to the marring and scratching of the furniture in the building due, to the use of metal waste baskets.

Waste baskets, being in the nature of stationery supplies, are not furnished from the appropriations for the care and maintenance of public buildings, except to the Custodians' forces when needed in connection with the care of the buildings. It has been the experience of the Department that metal waste baskets, unless great care is exercised in their handling, have a tendency to mar and scratch the furniture, and it is requested that you will take steps to aid the Department in its efforts to maintain its buildings and their appurtenances in a first-class condition.

Respectfully,

(Signed) R.O.BAILEY,
Assistant Secretary.

DEPARTMENT OF THE INTERIOR,
March 5, 1912.

Respectfully referred to the Commissioner, General Land Office, for his consideration, with the suggestion that such instructions be issued to all representatives of his bureau having quarters in public buildings as will result in the carrying into effect of the wishes of the Secretary of the Treasury in this matter.

(Signed) CARMI A. THOMPSON,
Assistant Secretary.

You are instructed to observe the foregoing instructions from the Department.

Fred Dennett

Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 89.

"A" JWD

MAR 29 1912

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

March 12, 1912.

: Furniture, filing cases, type-
: writers, etc., required in
: district land offices.

Registers and Receivers,

United States Land Offices.

Gentlemen:

You are instructed to forward at once to this office a report as to furniture, filing cases, typewriters, or repair thereof, records that need binding or rebinding, and all other items of incidental expenditure that are required in your respective offices. These reports should be forwarded at such time as will permit of their receipt at this office by May 1, 1912. An estimate of the cost should be placed opposite each item of expenditure. Registers and Receivers of land offices located in Government buildings will not include any item of furniture, which, under the law, is furnished by the Treasury Department, but will include such filing cases, typewriters, etc., as may, in their opinion, be needed. You will also report what, if any, records should be transcribed and the length of time it will require one clerk to perform the work.

Very respectfully,

Fred Dennett

SEH

Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 90.

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

March 21, 1912.

: Indorsements by Chiefs of Field
: Division upon notices of intention to submit proof.

Registers and Receivers and
Chiefs of Field Division.

Sirs:

Effective April 15, 1912, Chiefs of Field Division will discontinue the use of the stamps now employed by them to indicate upon the duplicate notice of intention to submit proof on an entry that there is a protest against the entry or that there is no protest against it, as the case may be. In lieu of the "protest" stamp, the following indorsement will be stamped upon the notice:

Please withhold FINAL CERTIFICATE until field investigation has been made and report submitted.

_____, _____
(Date) Chief of Field Division.

and in place of the "no protest" stamp this indorsement will be made:

No information now in this office warranting field investigation.

_____
(Date)

_____
Chief Field Div.

Accordingly, wherever, in circulars heretofore issued, Registers and Receivers are instructed to take certain action or to withhold action upon the receipt of a "protest" or of a "no protest" from the Chiefs of Field Division, they will take like action or withhold action, as the case may be, when indorsements are made in the form herein indicated.

Whenever the indorsement "Please withhold final certificate, etc.," is for the sole purpose of making an investigation as to the coal character of the lands involved, the Chiefs of Field Division will, in addition to that indorsement, stamp upon the top line of said indorsement "COAL ONLY," so that in such cases, the indorsement will be:

Circular No. [illegible]-2.

COAL ONLY

Please withhold FINAL CERTIFICATE until field investigation has been made and report submitted.

_____, _____

(Date) Chief of Field Division.

When indorsements in this last form are received, Registers and Receivers will, in case an election to receive patent is filed under the provisions of the act of March 3, 1909 (35 Stat., 844), issue final certificate, if the entry is in all other respects regular and there is no other reason for withholding certificate. When certificate is issued as herein authorized, the Register and Receiver will promptly advise the Chief of Field Division of the filing of the election and the issuance of certificate, unless the election was transmitted by the Chief of Field Division, in which case notice will be unnecessary.

Very respectfully,

Fred Dennett

Commissioner.

Approved:
March 21, 1912.

Samuel Adams

First Assistant Secretary.

IN REPLY PLEASE REFER TO--Circular No. 93.

"A"

APR 4 1912

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

March 28, 1912.

Transmitting copy of Executive Order No. 1142, prohibiting government employees from applying to Congress for legislation, etc.

Registers and Receivers,
U. S. Surveyors General, Chiefs of
Field Divisions, and U. S. Surveyors.

Gentlemen:

I inclose herewith copy of Executive Order of November 26, 1909, relative to activity of subordinates in any department of the Government in regard to legislation, with the advice that the Department will require a strict compliance therewith. You will bring this to the attension of each of your employees. This order was promulgated in December, 1909.

32 5 1/2

Please acknowledge receipt hereof and state whether or not you already have a copy on file.

Very respectfully,

Fred Dennett

Commissioner.

Acknowledged Apr. 20, 19

APR 4 1912

1-083

EXECUTIVE ORDER

==========

It is hereby ordered that no bureau, office or division chief, or subordinate in any department of the Government, and no officer of the army or navy or marine corps stationed in Washington, shall apply to either House of Congress, or to any committee of either House of Congress, or to any member of Congress, for legislation, or for appropriations, or for congressional action of any kind, except with the consent and knowledge of the head of the department; nor shall any such person respond to any request for information from either House of Congress, or any committee of either House of Congress, or any member of Congress, except through, or as authorized by, the head of his department.

Wm. H. TAFT

The White House,
November 26, 1909.

(No. 1142.)

CIRCULAR No. 94.

ENLARGED HOMESTEADS—ACT OF FEBRUARY 19, 1909 (35 STAT., 639), AND JUNE 17, 1910 (36 STAT., 531)—INSTRUCTIONS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 2, 1912.

REGISTERS AND RECEIVERS, *United States Land Offices, Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.*

GENTLEMEN: Under date of March 22, 1912, the following instructions were issued by the department to this office:

The COMMISSIONER OF THE GENERAL LAND OFFICE.

SIR: I have your informal memorandum dated March 2, 1912, submitted in connection with a letter prepared in your office for my signature (P. R. S., 1071), addressed to Hon. Charles N. Pray, House of Representatives, the memorandum being in full as follows:

"It is now held by the General Land Office that in cases such as are discussed in the accompanying letter an entry under the enlarged homestead act for the full area of 320 acres may be allowed when the deficit in area of the former perfected entry, under section 2289, Revised Statutes, was such as would entitle the entryman, under the rule of approximation, to make an additional entry under section 6 of the act of March 2, 1889 (25 Stat., 854), of a legal subdivision of 40 acres."

Differently stated, reference being had to the aforesaid draft of letter, this is the equivalent of saying that it is now held as a rule of administration in the General Land Office that in cases where a homestead entry has been allowed and perfected, under section 2289 of the Revised Statutes, for a quantity of land less than 160 acres, the entryman of the perfected homestead may make further or additional entry for 320 acres of land under the enlarged homestead act of February 19, 1909 (35 Stat., 639), in all cases where such deficiency would entitle him to make an additional entry under section 6 of the act of March 2, 1889, for 40 acres of land.

That this is an erroneous view of the law seems clear. The enlarged homestead act permits the entry of 320 acres or less of land by any person "who is a qualified entryman under the homestead laws of the United States." Section 6 of said act of March 2, 1889, qualified a person who has entered "a quantity of land less than 160 acres," and who is otherwise within its provisions, to enter under the homestead laws "so much additional land as added to the quantity previously so entered by him shall not exceed 160 acres." This does not restore such person to the full qualifications of a homestead entryman, but confers a special and limited privilege—limited to the right to make an additional entry for lands of area to be measured by the difference in acreage between 160 acres, the full homestead right given by section 2289 of the Revised Statutes, and the number

of acres actually entered thereunder. In other words, the right granted by the act of March 2, 1889, is the right to enter additional land in amount limited to meet the deficiency existing between that originally entered under the homestead laws and 160 acres. The rule of approximation for administrative convenience may in actual practice either enlarge or reduce this right, but this does not affect the construction of the statute.

So the right of additional entry given by the act of March 2, 1889, is necessarily confined by its terms to an acreage wholly inconsistent with the theory that 320 acres may be entered under the enlarged homestead act. Nothing in the enlarged homestead act precludes the exercise of such right of additional entry within the area designated for entry under that act, but the grant of additional right is not thereby enlarged as to such cases. It is such right only as might be exercised elsewhere upon the public domain of the United States subject to homestead entry.

This question was presented in a somewhat different form in the case of ex parte Saavi Storaasli, decided by this department July 18, 1911 (40 L. D., 193). That case involved the right of Storaasli to make an entry of 320 acres or to retain an entry of 160 acres of land he had been allowed to make under the enlarged homestead act. It appeared that he had theretofore made and perfected an entry under section 2289 of the Revised Statutes for 157.33 acres, and he maintained his claim of right to make the enlarged homestead upon the ground that he was in that behalf a qualified entryman by reason of the deficiency of 2.67 acres of his original homestead and consequent additional entry privilege accorded by the act of March 2, 1889. That claim was denied upon the ground that—

"The fact that the land thus patented lacked a little more than 2 acres of making 160 acres did not give him the status of a qualified homestead entryman or the right to enter under the enlarged homestead act an additional 320 acres of land."

It was not intended by this to say, even inferentially, that the case would have been different if the deficiency in the original entry had been large enough under the act of March 2, 1889, as administered, to entitle him to an additional homestead entry for 40 acres of land. That case was decided upon its own facts. The discussion was confined to such facts, and nothing found therein justifies the rule which you say now obtains in your office with reference to this question.

I have to direct that in the further administration of the enlarged homestead act your office conform to the views herein expressed.

Very respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

The foregoing instructions supersede any former practice or instructions, and you will be governed accordingly.

Very respectfully,

FRED DENNETT, *Commissioner.*

Approved, April 2, 1912.

SAMUEL ADAMS,
First Assistant Secretary.

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CIRCULAR NO. 94.

ENLARGED HOMESTEADS—ACT OF FEBRUARY 19, 1909 (35 STAT., 639), AND JUNE 17, 1910 (36 STAT., 531)—INSTRUCTIONS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 2, 1912.

REGISTERS AND RECEIVERS, *United States Land Offices, Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.*

GENTLEMEN: Under date of March 22, 1912, the following instructions were issued by the department to this office:

THE COMMISSIONER OF THE GENERAL LAND OFFICE.

SIR: I have your informal memorandum dated March 2, 1912, submitted in connection with a letter prepared in your office for my signature (P. R. S., 1071), addressed to Hon. Charles N. Pray, House of Representatives, the memorandum being in full as follows:

"It is now held by the General Land Office that in cases such as are discussed in the accompanying letter an entry under the enlarged homestead act for the full area of 320 acres may be allowed when the deficit in area of the former perfected entry, under section 2289, Revised Statutes, was such as would entitle the entryman, under the rule of approximation, to make an additional entry under section 6 of the act of March 2, 1889 (25 Stat., 854), of a legal subdivision of 40 acres."

Differently stated, reference being had to the aforesaid draft of letter, this is the equivalent of saying that it is now held as a rule of administration in the General Land Office that in cases where a homestead entry has been allowed and perfected, under section 2289 of the Revised Statutes, for a quantity of land less than 160 acres, the entryman of the perfected homestead may make further or additional entry for 320 acres of land under the enlarged homestead act of February 19, 1909 (35 Stat., 639), in all cases where such deficiency would entitle him to make an additional entry under section 6 of the act of March 2, 1889, for 40 acres of land.

That this is an erroneous view of the law seems clear. The enlarged homestead act permits the entry of 320 acres or less of land by any person "who is a qualified entryman under the homestead laws of the United States." Section 6 of said act of March 2, 1889, qualified a person who has entered "a quantity of land less than 160 acres," and who is otherwise within its provisions, to enter under the homestead laws "so much additional land as added to the quantity previously so entered by him shall not exceed 160 acres." This does not restore such person to the full qualifications of a homestead entryman, but confers a special and limited privilege—limited to the right to make an additional entry for lands of area to be measured by the difference in acreage between 160 acres, the full homestead right given by section 2289 of the Revised Statutes, and the number

of acres actually entered thereunder. In other words, the right granted by the act of March 2, 1889, is the right to enter additional land in amount limited to meet the deficiency existing between that originally entered under the homestead laws and 160 acres. The rule of approximation for administrative convenience may in actual practice either enlarge or reduce this right, but this does not affect the construction of the statute.

So the right of additional entry given by the act of March 2, 1889, is necessarily confined by its terms to an acreage wholly inconsistent with the theory that 320 acres may be entered under the enlarged homestead act. Nothing in the enlarged homestead act precludes the exercise of such right of additional entry within the area designated for entry under that act, but the grant of additional right is not thereby enlarged as to such cases. It is such right only as might be exercised elsewhere upon the public domain of the United States subject to homestead entry.

This question was presented in a somewhat different form in the case of ex parte Saavi Storaasli, decided by this department July 18, 1911 (40 L. D., 193). That case involved the right of Storaasli to make an entry of 320 acres or to retain an entry of 160 acres of land he had been allowed to make under the enlarged homestead act. It appeared that he had theretofore made and perfected an entry under section 2289 of the Revised Statutes for 157.33 acres, and he maintained his claim of right to make the enlarged homestead upon the ground that he was in that behalf a qualified entryman by reason of the deficiency of 2.67 acres of his original homestead and consequent additional entry privilege accorded by the act of March 2, 1889. That claim was denied upon the ground that—

"The fact that the land thus patented lacked a little more than 2 acres of making 160 acres did not give him the status of a qualified homestead entryman or the right to enter under the enlarged homestead act an additional 320 acres of land."

It was not intended by this to say, even inferentially, that the case would have been different if the deficiency in the original entry had been large enough under the act of March 2, 1889, as administered, to entitle him to an additional homestead entry for 40 acres of land. That case was decided upon its own facts. The discussion was confined to such facts, and nothing found therein justifies the rule which you say now obtains in your office with reference to this question.

I have to direct that in the further administration of the enlarged homestead act your office conform to the views herein expressed.

Very respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

The foregoing instructions supersede any former practice or instructions, and you will be governed accordingly.

Very respectfully,

FRED DENNETT, *Commissioner.*

Approved, April 2, 1912.

SAMUEL ADAMS,
First Assistant Secretary.

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INSTRUCTIONS.

ENLARGED HOMESTEAD—QUALIFICATIONS.

In order to entitle one to make an entry for 320 acres under the enlarged homestead act he must be possessed of the right to make homestead entry for 160 acres elsewhere; and one entitled under section 6 of the act of March 2, 1889, to make an additional entry for an amount less than 160 acres, is not, by virtue of that fact, qualified to make an entry for 320 acres under the enlarged homestead act.

REGISTERS AND RECEIVERS,
United States Land Offices,
Arizona, Colorado, Idaho, Montana, Nevada,
New Mexico, Oregon, Utah, Washington, and Wyoming.

GENTLEMEN: Under date of March 22, 1912, the following instructions were issued by the Department to this office:

THE COMMISSIONER OF THE GENERAL LAND OFFICE.

SIR: I have your informal memorandum dated March 2, 1912, submitted in connection with a letter prepared in your office for my signature (P. R. S. 1071), addressed to Hon. Charles N. Pray, House of Representatives, the memorandum being in full as follows:

"It is now held by the General Land Office that in cases such as are discussed in the accompanying letter an entry under the enlarged homestead act for the full area of 320 acres may be allowed when the deficit in area of the former perfected entry under section 2289, R. S., was such as would entitle the entryman, under the rule of approximation, to make an additional entry under section 6 of the act of March 2, 1889 (25 Stat., 854), of a legal subdivision of forty acres."

Differently stated, reference being had to the aforesaid draft of letter, this is the equivalent of saying that it is now held as a rule of administration in the General Land Office that in cases where a homestead entry has been allowed and perfected under section 2289 of the Revised Statutes, for a quantity of land less than 160 acres, the entryman of the perfected homestead may make further or additional entry for 320 acres of land under the enlarged homestead act of February 19, 1909 (35 Stat., 637), in all cases where such deficiency would entitle him to make an additional entry under section 6 of the act of March 2, 1889, for forty acres of land.

That this is an erroneous view of the law seems clear. The enlarged homestead act permits the entry of 320 acres or less of land by any person "who is a qualified entryman under the homestead laws of the United States." Section 6 of said act of March 2, 1889, qualified a person who has entered "a quantity of land less than 160 acres" and who is otherwise within its provisions, to enter under the homestead laws "so much additional land as added to the quantity previously so entered by him shall not exceed 160 acres." This does not restore such person to the full qualifications of a homestead entryman but confers a special and limited privilege—limited to the right to make an additional entry for lands of area to be measured by the difference in acreage between 160 acres, the full homestead right given by section 2289 of the Revised Statutes, and the number of acres actually entered thereunder.

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In other words, the right granted by the act of March 2, 1889, is the right to enter additional land in amount limited to meet the deficiency existing between that originally entered under the homestead laws and 160 acres. The rule of approximation for administrative convenience may in actual practice either enlarge or reduce this right, but this does not affect the construction of the statute.

So the right of additional entry given by the act of March 2, 1889, is necessarily confined by its terms to an acreage wholly inconsistent with the theory that 320 acres may be entered under the enlarged homestead act. Nothing in the enlarged homestead act precludes the exercise of such right of additional entry within the area designated for entry under that act, but the grant of additional right is not thereby enlarged as to such cases. It is such right only as might be exercised elsewhere upon the public domain of the United States subject to homestead entry.

This question was presented in a somewhat different form in the case of Ex parte Saavi Storaasli, decided by this Department July 18, 1911 (40 L. D., 193). That case involved the right of Storaasli to make an entry of 320 acres or to retain an entry of 160 acres of land he had been allowed to make under the enlarged homestead act. It appeared that he had theretofore made and perfected an entry under section 2289 of the Revised Statutes, for 157.33 acres, and he maintained his claim of right to make the enlarged homestead upon the ground that he was in that behalf a qualified entryman by reason of the deficiency of 2.67 acres of his original homestead, and consequent additional entry privilege accorded by the act of March 2, 1889. That claim was denied upon the ground that—

"The fact that the land thus patented lacked a little more than two acres of making 160 acres, did not give him the status of a qualified homestead entryman or the right to enter under the enlarged homestead act an additional 320 acres of land."

It was not intended by this to say, even inferentially, that the case would have been different if the deficiency in the original entry had been large enough under the act of March 2, 1889, as administered, to entitle him to an additional homestead entry for forty acres of land. That case was decided upon its own facts. The discussion was confined to such facts, and nothing found therein justifies the rule which you say now obtains in your office with reference to this question.

I have to direct that in the further administration of the enlarged homestead act your office conform to the views herein expressed.

Very respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

The foregoing instructions supersede any former practice or instructions and you will be governed accordingly.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved, April 2, 1912.

SAMUEL ADAMS,
First Assistant Secretary.

CIRCULAR No. 95.

INSTRUCTIONS AS TO THE USE OF FORM 4–141a.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, April 4, 1912.

Registers and Receivers, United States Land Offices.

GENTLEMEN: On and after June 1, 1912, with all applications and proofs executed before officers other than yourselves must be filed a statement, in duplicate, of the fees charged by the attesting officer. Such statement must be made on Form 4–141a, a supply of which should be furnished all officers doing business in your respective districts, together with a copy of Circular No. 96.

Immediately upon receipt of such statements you will compare them with the accompanying papers and forward one, without letter, to the chief of your field division, and the other to the entryman or applicant, with the receiver's receipt for any money forwarded with the papers.

If any officer refuses to furnish the statement herein required, you will at once refuse to set any final proofs before him, giving him notice thereof, and report your action to this office for further instructions.

Very respectfully,

FRED DENNETT,
Commissioner.

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Revoked by Circ. 146

CIRCULAR No. 96.

STATEMENT OF FEES COLLECTED BY ATTESTING OFFICERS REQUIRED.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, April 4, 1912.

OFFICERS AUTHORIZED UNDER SECTION 2294, REVISED STATUTES, TO ADMINISTER OATHS IN CONNECTION WITH LAND APPLICATIONS, ENTRIES, ETC.

GENTLEMEN: On and after June 1, 1912, with all applications and proofs executed before officers other than the registers and receivers of district land offices must be filed a statement, in duplicate, of the fees charged by the attesting officer. Such statement must be made on Form 4–141a, which may be obtained without cost from the district land offices.

Section 2294, Revised Statutes, as amended by the act of March 4, 1904 (35 Stat., 59), provides in part as follows:

> That the fees for entries and for final proofs, when made before any other officer than the register and receiver, shall be as follows:
>
> For each affidavit, twenty-five cents.
>
> For each deposition of claimant or witness, when not prepared by the officer, twenty-five cents.
>
> For each deposition of claimant or witness, prepared by the officer, one dollar.
>
> Any officer demanding or receiving a greater sum for such service shall be guilty of a misdemeanor, and, upon conviction, shall be punished for each offense by a fine not exceeding one hundred dollars.

Appropriate action will be taken by this office should any officer refuse to furnish the statement of fees collected by him.

Very respectfully,

FRED DENNETT,
Commissioner.

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IN REPLY PLEASE REFER TO--Circular No. 97.
"M" FTL

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

APR 27 1912

WASHINGTON

April 11, 1912.

RETURNS: Classified "Schedule of Serial Numbers," required under paragraph 86-2(g) Circular June 10, 1908.

Registers and Receivers,
United States Land Offices.

Sirs:

Hereafter, the CLASSIFIED schedule of "Applications for Sale of Isolated Tracts," should report only such applications as are transmitted with your returns for the month shown at the top of said schedule, or which have been transmitted special during the month under authority from this office. Dates of special transmittal must always be shown in the "Remarks" column.

In the first column always show date of filing. As the name of the CLASSIFIED schedule should be shown at the top thereof, it will not be necessary to note "Is. Tr." in each istance in the column "Kind of Application or Entry." The last-named column may be used for the names of the applicants.

A rejected application, upon transmittal should, of course, be reported on the CLASSIFIED schedule of "Applications for Sale of Isolated Tracts," with notation "Rejected," as well as on the CLASSIFIED schedule of "Rejected Applications, Proofs, etc."

If an application is not returned by the Chief of Field Division in time to be forwarded with the returns for the month during which filed, note "To C.F.D. (giving date)" in the "Remarks" column of the general "Schedule of Serial Numbers," required under paragraph 86-1, Circular June 10, 1908, and forward a brief report with your returns for that month, giving Serial Number involved, name of applicant, and date of transmittal to the Chief of Field Division, observing paragraph 81, above-mentioned instructions.

Do not report names of applicants on the general Schedule (86-1).

Please acknowledge receipt hereof on inclosed postal card.

Very respectfully,

Fred Dennett

Commissioner.

4-9-ACY

Circular No. 99.

ENLARGED HOMESTEADS—SETTLEMENT RIGHTS—ADDITIONAL ENTRIES—INSTRUCTIONS.

DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
WASHINGTON

April 16, 1912.

Registers and Receivers, United States Land Offices, Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

GENTLEMEN: The following instructions are issued for your guidance in the administration of the act of Congress approved February 19, 1909, "to provide for an enlarged homestead" (35 Stat., 639), and are supplemental to, and in modification of, the instructions contained in Circular No. 10, Suggestions to Homesteaders, approved April 20, 1911, pages 17 to 21, inclusive.

An entryman under section 2289, Revised Statutes, who makes an additional entry under section 3 of the enlarged homestead act, may continue both residence and cultivation upon the original entry, but final proof may not be made for the land embraced in the additional entry until full compliance with the requirements of said act has been effected beginning with the date of such additional entry. Final proof must be made on the original entry within the statutory period of seven years.

The cultivation required in such cases is an amount equal to one-eighth and one-fourth of the area embraced in the additional entry, commencing with the second and third years, respectively, of such additional entry. If such proportionate area, or any part thereof, is of land embraced in the original unperfected entry, there must be such additional cultivation of the original entry as would ordinarily be required to perfect title thereto if it stood alone.

Prior to the designation of land as subject to entry under the enlarged homestead act, a settlement right may be acquired to not more than approximately 160 acres of unsurveyed land, and should such settlement claim be extended, after all the land involved has been designated as subject to entry under the act, to embrace additional land with a view to entry under the said act, title may be acquired to the enlarged area only by continued residence, and cultivation as required by section 4 of the act, for the full period after the date of designation and extension of settlement.

All former instructions not in harmony with the foregoing are vacated, and superseded hereby, and you will mail a copy of this circular to every person having an unperfected entry under the enlarged homestead act in your district. You will also inclose it with each "Suggestions to Homesteaders" which you may hereafter send out in response to inquiries under the homestead laws.

These instructions apply also to the act of June 17, 1910 (36 Stat., 531), providing for an enlarged homestead in the State of Idaho.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved:

SAMUEL ADAMS,
First Assistant Secretary.

6—3208

BLM Library
Denver Federal Center
Bldg. 85, OC-521
P.O. Box 25047
Denver, CO 80225

IN REPLY PLEASE REFER TO--Circular No. 100.

"M" APB 1 Inc.

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

April 18, 1912.

ACCOUNTS: Bills of lading.

Registers and Receivers,
United States Surveyors General,
and Field Employees.

Sirs:

Attention is called to Circular No. 7, dated April 20, 1911, and particularly to that part which directs that all requisitions for bills of lading must be made the subject of a separate communication. You must in no case make requisition for bills of lading, form 4-117, on the same blank with requisition for other blanks, nor in a letter making requisition for other supplies, and if, in any case, unnumbered bills of lading are sent to you, or come into your possession, you should immediately return such unnumbered bills of lading to this office, with the request that you be furnished such supply as may be necessary of bills of lading bearing serial numbers stamped thereon in this off ice.

Please acknowledge receipt hereof on the attached card.

Very respectfully,

Fred Dennett

Commissioner.

4-13 JLM

APR 27 1912

Petitions or other communications regarding public business addressed to Congress, Committees or Members from civil service officers or employees to be transmitted through heads of their respective departments.

EXECUTIVE ORDER.

-----:o:-----

It is hereby ordered that petitions or other communications regarding public business addressed to the Congress or either House or any Committee or Member thereof by officers or employees in the civil service of the United States shall be transmitted through the heads of their respective departments or offices, who shall forward them without delay with such comment as they may deem requisite in the public interest. Officers and employees are strictly prohibited either directly or indirectly from attempting to secure legislation, or to influence pending legislation, except in the manner above prescribed.

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This order supersedes the Executive orders of January 31, 1902, January 25, 1906, and November 26, 1909, regarding the same general matter.

WM H TAFT

The White House,
April 8, 1912. [No. 1514.]

Department of the Interior, reprint.

IN REPLY PLEASE REFER TO--Circular No. 101.

"P"

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

April 27, 1912.

: Instructions recalling
: duplicate certificate
: and stamping coal res-
: ervation thereon.

Registers and Receivers,

U. S. Land Offices.

Sirs:

Hereafter, when an election is filed to take land with coal reservation to the United States in cases where final certificate has already issued and been transmitted to this office, you will recall the duplicate certificate and make proper notations thereon, and in addition to noting on the election paper "Coal reservation noted on records," state "Duplicate certificate called for." Rubber stamps will be sent hereafter.

Very respectfully,

Fred Dennett

Commissioner.

4-23 JK

Circular No. 103.

ISOLATED TRACTS—SECTION 2455, REVISED STATUTES, AS AMENDED BY ACT OF MARCH 28, 1912 (PUBLIC, NO. 111).

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 30, 1912.

Registers and Receivers, United States land offices.

SIRS: Your attention is directed to the act of Congress, approved March 28, 1912 (Public, No. 111), amending section 2455, Revised Statutes of the United States, to read as follows:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section twenty-four hundred and fifty-five of the Revised Statutes of the United States be amended to read as follows:

"'Sec. 2455. It shall be lawful for the Commissioner of the General Land Office to order into market and sell at public auction, at the land office of the district in which the land is situated, for not less than one dollar and twenty-five cents an acre, any isolated or disconnected tract or parcel of the public domain not exceeding one-quarter section which, in his judgment, it would be proper to expose for sale after at least thirty days' notice by the land officers of the district in which such land may be situated: *Provided*, That any legal subdivisions of the public land, not exceeding one-quarter section, the greater part of which is mountainous or too rough for cultivation, may, in the discretion of said Commissioner, be ordered into the market and sold pursuant to this act upon the application of any person who owns lands or holds a valid entry of lands adjoining such tract, regardless of the fact that such tract may not be isolated or disconnected within the meaning of this act: *Provided further*, That this act shall not defeat any vested right which has already attached under any pending entry or location.'

"Approved, March 28, 1912."

The material change is found in the first proviso, authorizing the sale of legal subdivisions not exceeding one-quarter section, the greater part of which is mountainous or too rough for cultivation, upon the application of any person who owns or holds a valid entry of lands adjoining such tract, and regardless of the fact that such tract may not be actually isolated by the entry or other disposition of surrounding lands. It is left entirely to the discretion of the Commissioner of the General Land Office to determine whether a tract shall be sold, and it will not be practicable to prescribe a set of rules governing the conditions which would render a tract susceptible to sale under the proviso. Applications will be disposed of by you in accordance with the isolated-tract regulations contained in circulars of January 19, 1912, No. 71 (general) and No. 72 (Kinkaid

territory in Nebraska), except that paragraph 7 of Circular No. 71 and paragraph 22 of Circular No. 72 are not applicable, and no tract within the territory affected by the Kinkaid Act in Nebraska, exceeding 160 acres in area, will be ordered into the market under the first proviso to section 2455. Applications may be made upon the forms provided (4–008B and 4–008C) and printed in the circulars above named, properly modified as necessitated by the terms of the proviso. In addition, the applicant must furnish evidence of his ownership of adjoining land, or that he holds a valid entry embracing adjoining land, in connection with which entry he has fully met the requirements of law; also detailed evidence as to the character of the land applied for, the extent to which it is cultivable, and the conditions which render the greater portion unfit for cultivation; also a description of any and all lands theretofore applied for under the proviso or purchased under section 2455 or the amendments thereto. This evidence must consist of an affidavit by the claimant, corroborated by the affidavits of not less than two disinterested persons having actual knowledge of the facts.

No sale will be authorized under the proviso upon the application of a person who has procured one offering thereunder except upon a showing of strong necessity therefor owing to some peculiar condition which prevented original application for the full area allowed to be sold at one time, 160 acres. And in no event will an application be entertained where the applicant has purchased under section 2455, or the amendments thereto, an area which, when added to the area applied for, shall exceed approximately 160 acres.

Until it becomes necessary to reprint the same (when a new supply will be furnished you), you will use the form of notice for publication now provided for isolated-tract sales, but in all cases, whether the sale is ordered under the body of the act or the proviso, you will insert, in lieu of "June 27, 1906 (34 Stat., 517)," the words "March 28, 1912 (Public, No. 111)," and where the sale is authorized under the proviso you will add after the description of the land, "This tract is ordered into the market on a showing that the greater portion thereof is mountainous or too rough for cultivation."

The provisions of section 2455 relating to the sale of tracts actually isolated are not changed by this act, and such applications will be governed by the regulations contained in Circulars Nos. 71 and 72, supra, as heretofore.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved:
SAMUEL ADAMS,
First Assistant Secretary.

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CHEYENNE RIVER AND STANDING ROCK INDIAN LANDS—TIME OF PAYMENTS EXTENDED.

CIRCULAR.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., May 4, 1912.

Registers and Receivers, United States Land Offices,
Lemmon and Timber Lake, South Dakota.

SIRS: Your attention is directed to the act of Congress approved April 13, 1912 (Public, No. 119), which reads as follows:

That any person who has heretofore made a homestead entry for land which was formerly a part of the Cheyenne River Indian Reservation, in the State of South Dakota, or the Standing Rock Indian Reservation in the States of South Dakota and North Dakota, authorized by the act approved May twenty-ninth, nineteen hundred and eight, may apply to the register and receiver of the land office in the district or districts in which the land is located for an extension of time in which to make payment of any amount that is about to become due, and upon the payment of interest for one year in advance, at five per centum per annum upon the amount due, such payment will be extended for a period of one year, and any payment so extended may annually thereafter be extended for a period of one year in the same manner: *Provided*, That the last payment and all other payments must be made within a period not exceeding one year after the last payment becomes due by the terms of the act under which the entry was made; that all moneys paid for interest as herein provided shall be deposited in the Treasury to the credit of the Indians as a part of the proceeds received for the land: *And provided further*, That any entryman who has resided upon and cultivated the land embraced in his entry for the period of time required by law in order to make commutation proof, may make proof, and if the same is approved, further residence and cultivation will not be required: *Provided*, That any and all payments must be made when due unless the entryman applies for an extension and pays interest at five per centum per annum in advance upon the amount due as herein provided, and patent shall be withheld until full and final payment of the purchase price is made in accordance with the provisions hereof.

That failure to make any payment that may be due, unless the same be extended, or to make any extended payment at or before the time to which such payment has been extended as herein provided, will forfeit the entry and the same shall be canceled, and any and all payments theretofore made shall be forfeited.

That nothing herein contained shall affect any valid adverse claim initiated prior to the passage of this act.

No special form of application for extension of time to make payment will be required; the payment by the entryman of interest for one year in advance, on any amount about to become due, at the rate of five per centum per annum, will be sufficient, and the receiver will note, upon receipts and abstracts of collections, the nature and purpose of the payment.

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Under the second proviso of the act, any entryman who has resided upon and cultivated the land embraced in his entry for the period of time required by law in order to make commutation proof, may make proof, and if the same is approved, further residence and cultivation will not be required, and the entryman may complete his payments in the annual instalments, and subject to the same conditions as to extensions of time, as though such proof had not been made. If such proof is found satisfactory by you, you will so notify the entryman, and that your approval thereof is subject to review by this office; the register will not issue final certificates, but forward the proof to this office with the returns for the current month, attaching thereto a brief report as to its status. Upon final payment being made, final certificate may issue, in the absence of other objection, without instructions from this office.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved:
SAMUEL ADAMS,
First Assistant Secretary.

RIGHTS OF WAY—REGULATIONS OF JUNE 6, 1908, AMENDED.

REGULATIONS.

DEPARTMENT OF THE INTERIOR,
Washington, May 7, 1912.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

SIR: In the matter of the regulations approved June 6, 1908 (36 L. D., 567), concerning rights of way over public lands and reservations for canals, ditches and reservoirs and the use of a right of way for various purposes, I have to direct that modifications be made of paragraphs 38 and 43 thereof. As modified these paragraphs will read as follows:

38. *Nature of grant.*—It is to be specially noted that this act does not make a grant in the nature of an easement but authorizes a mere permit in the nature of a license which permit may be revoked by the Secretary, or his successor, at any time, in his discretion. Further, it gives no right whatever to take from public lands, reservations or parks adjacent to the right of way any materials, earth or stone, for construction or other purposes.

43. *National parks.*—Whenever a right of way is through any of the national parks designated in the act, the applicant must show to the satisfaction of the Department that the location and use of the right of way for the purposes contemplated will not interfere with the uses and purposes for which the park was originally dedicated, and will not result in damage or injury to the natural conditions of property or scenery existing therein. The applicant must

Under the second proviso of the act, any entryman who has resided upon and cultivated the land embraced in his entry for the period of time required by law in order to make commutation proof, may make proof, and if the same is approved, further residence and cultivation will not be required, and the entryman may complete his payments in the annual instalments, and subject to the same conditions as to extensions of time, as though such proof had not been made. If such proof is found satisfactory by you, you will so notify the entryman, and that your approval thereof is subject to review by this office; the register will not issue final certificates, but forward the proof to this office with the returns for the current month, attaching thereto a brief report as to its status. Upon final payment being made, final certificate may issue, in the absence of other objection, without instructions from this office.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved:
SAMUEL ADAMS,
First Assistant Secretary.

RIGHTS OF WAY—REGULATIONS OF JUNE 6, 1908, AMENDED.

REGULATIONS.

DEPARTMENT OF THE INTERIOR,
Washington, May 7, 1912.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

SIR: In the matter of the regulations approved June 6, 1908 (36 L. D., 567), concerning rights of way over public lands and reservations for canals, ditches and reservoirs and the use of a right of way for various purposes, I have to direct that modifications be made of paragraphs 38 and 43 thereof. As modified these paragraphs will read as follows:

38. *Nature of grant.*—It is to be specially noted that this act does not make a grant in the nature of an easement but authorizes a mere permit in the nature of a license which permit may be revoked by the Secretary, or his successor, at any time, in his discretion. Further, it gives no right whatever to take from public lands, reservations or parks adjacent to the right of way any materials, earth or stone, for construction or other purposes.

43. *National parks.*—Whenever a right of way is through any of the national parks designated in the act, the applicant must show to the satisfaction of the Department that the location and use of the right of way for the purposes contemplated will not interfere with the uses and purposes for which the park was originally dedicated, and will not result in damage or injury to the natural conditions of property or scenery existing therein. The applicant must

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also file the stipulations and bond required by section 6, but, in case of a telephone line, substitute the following: "That upon completion of the telephone lines they shall be subject to the free use of the park officers for all purposes incident to the administration of the park," for stipulation (e) under said section 6.

Whenever right of way within a park is desired for operations in connection with mining, quarrying, cutting timber, or manufacturing lumber, a satisfactory showing must be made of the applicant's right to engage in such operations within the park. If the application and the showing made in support thereof is satisfactory, the Secretary of the Interior will give the required permission in such form as may be deemed proper, according to the features of each case; and any permission granted hereunder is also subject to such further and future regulations as may be adopted by the Department.

You will see that these changes are made in an appropriate way in circulars hereafter distributed under this act.

Very respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

RECLAMATION—TIETON UNIT, YAKIMA PROJECT, WASHINGTON.

PUBLIC NOTICE.

DEPARTMENT OF THE INTERIOR,
Washington, May 10, 1912.

In pursuance of the provisions of the Reclamation Act of June 17, 1902 (32 Stat., 388), public notice was issued April 18, 1912 [40 L. D., 579], providing for the opening of certain farm units under the Tieton unit, Yakima project, Washington, and stating the terms and conditions under which the water rights might be obtained for said lands.

Paragraph 15 of the said notice is hereby amended to read as follows:

15. After the expiration of the period for entry hereinbefore provided for, all entries made for any of the lands described, whether for lands not heretofore entered or for lands covered by prior entries which have been canceled by relinquishment or otherwise, shall be accompanied by applications for water rights in due form, and by all charges for building, operation and maintenance then due. Where payments have been duly made by the prior applicants and credits therefor duly assigned in writing the entryman shall continue the payments thus begun. In other cases the entryman shall pay the first instalment in full at the time of his entry; the second instalment shall become due on April 1 of the calendar year following the date of entry; and subsequent instalments shall become due on April

IN REPLY PLEASE REFER TO--Circular No. 115.

"M" FTL 1 Inc.

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

May 20, 1912.

RETURNS: Classified "Schedule of Serial Numbers," reporting change of status of entries within National Forests.

Registers and Receivers,

United States Land Offices.

Sirs:

Hereafter, please forward direct to the District Foresters, in duplicate, the classified schedule reporting change of status of entries within National Forests, required under circular letters "M" of November 21, 1908, and April 19, 1909, and discontinue the practice of transmitting a copy thereof to the Forester, Forest Service, Washington, D. C. Such schedule need not be furnished this office.

Please acknowledge receipt hereof on inclosed postal card.

Very respectfully,

Fred Dennett

Commissioner.

5-18 ACY

IN REPLY PLEASE REFER TO--Circular No. 116.

"W" NYK 1 Inc.

DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
WASHINGTON

May 20, 1914.

RETURNS: Classified "Schedule of Serial Numbers," reporting change of status of entries within National Forests.

Registers and Receivers,
United States Land Offices.

Sirs:

Hereafter, please forward direct to the District Foresters, in duplicate, the classified schedule reporting change of status of entries within National Forests, required under circular letters "M" of November 21, 1908, and April 19, 1909, and discontinue the practice of transmitting a copy thereof to the Forester, Forest Service, Washington, D. C. Such schedule need not be furnished this office.

Please acknowledge receipt hereof on inclosed postal card.

Very respectfully,

Commissioner.

S-19 ACY

CIRCULAR No. 116.

EXTENSION OF TIME FOR SUBMITTING FINAL PROOF ON DESERT-LAND ENTRIES—ACT OF APRIL 30, 1912 (PUBLIC, NO. 143).

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, May 21, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices.

SIRS: Annexed is a copy of the act of Congress approved April 30, 1912 (Public, No. 143), entitled "An act authorizing the Secretary of the Interior to grant further extension of time within which to make proof on desert-land entries."

1. All applications for the benefit of this act must be supported by the affidavits of the applicants and at least two corroborating witnesses, made before an officer legally authorized to administer oaths in connection with the entry in question, and set forth the facts on account of which the further extension of time is desired.

2. Such applications and affidavits must be filed in the local land office of the district wherein the lands are situated, for transmission, with the recommendation of the register and receiver, to the Commissioner of the General Land Office.

3. You are directed to suspend any application that may be considered defective in form or substance and allow the applicant an opportunity to remedy the defects or to file exceptions to the requirements made, advising him that, upon his failure to take any action within a specified time, appropriate recommendations will be made. Should exceptions be filed, they will be duly considered with the entire record. In transmitting applications for the benefit of this act you will report specifically whether or not there is any contest pending against the entry involved, and if a contest is pending you will transmit the application to the Commissioner of the General Land Office by special letter, without action thereon, making due reference to this paragraph.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved:
SAMUEL ADAMS,
First Assistant Secretary.

[PUBLIC—No. 143.]

AN ACT Authorizing the Secretary of the Interior to grant further extension of time within which to make proof on desert-land entries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may, in his discretion, in addition to the extension authorized by existing law, grant to any entryman under the

desert-land laws a further extension of the time within which he is required to make final proof: *Provided*, That such entryman shall, by his corroborated affidavit filed in the land office of the district where such land is located, show to the satisfaction of the Secretary that because of unavoidable delay in the construction of irrigation works intended to convey water to the land embraced in his entry he is, without fault on his part, unable to make proof of the reclamation and cultivation of said lands as required by law within the time limited therefor; but such extension shall not be granted for a period of more than three years, and this act shall not affect contests initiated for a valid existing reason: *Provided*, That the total extension of the statutory period for making final proof that may be allowed in any one case under this act, and any other existing statutes of either general or local application, shall be limited to six years in the aggregate.

Approved, April 30, 1912.

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CIRCULAR No. 116.

EXTENSION OF TIME FOR SUBMITTING FINAL PROOF ON DESERT-LAND ENTRIES—ACT OF APRIL 30, 1912 (PUBLIC, NO. 143).

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, May 21, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices.

SIRS: Annexed is a copy of the act of Congress approved April 30, 1912 (Public, No. 143), entitled "An act authorizing the Secretary of the Interior to grant further extension of time within which to make proof on desert-land entries."

1. All applications for the benefit of this act must be supported by the affidavits of the applicants and at least two corroborating witnesses, made before an officer legally authorized to administer oaths in connection with the entry in question, and set forth the facts on account of which the further extension of time is desired.

2. Such applications and affidavits must be filed in the local land office of the district wherein the lands are situated, for transmission, with the recommendation of the register and receiver, to the Commissioner of the General Land Office.

3. You are directed to suspend any application that may be considered defective in form or substance and allow the applicant an opportunity to remedy the defects or to file exceptions to the requirements made, advising him that, upon his failure to take any action within a specified time, appropriate recommendations will be made. Should exceptions be filed, they will be duly considered with the entire record. In transmitting applications for the benefit of this act you will report specifically whether or not there is any contest pending against the entry involved, and if a contest is pending you will transmit the application to the Commissioner of the General Land Office by special letter, without action thereon, making due reference to this paragraph.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved:
SAMUEL ADAMS,
First Assistant Secretary.

[PUBLIC—No. 143.]

AN ACT Authorizing the Secretary of the Interior to grant further extension of time within which to make proof on desert-land entries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may, in his discretion, in addition to the extension authorized by existing law, grant to any entryman under the

CIRCULAR No. 117.

ACT APPROVED APRIL 30, 1912—OFFERINGS AT PUBLIC SALE OF ISOLATED TRACTS OF COAL LAND.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, May 23, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices.

GENTLEMEN: The act of Congress approved April 30, 1912, Public 141, provides:

> That * * * unreserved public lands of the United States, exclusive of Alaska, which have been withdrawn or classified as coal lands, or are valuable for coal, shall * * * be subject * * * to disposition * * * under the laws providing for the sale of isolated or disconnected tracts of public lands, but there shall be a reservation to the United States of the coal in such lands so * * * sold, and of the right to prospect for, mine, and remove the same in accordance with the provisions of the act of June twenty-second, nineteen hundred and ten, and such lands shall be subject to all the conditions and limitations of said act.

The instructions of January 19, 1912, and April 30, 1912, issued under amended section 2455, Revised Statutes, should be followed in administering this act, in so far as they are applicable, and these instructions are issued in addition thereto:

(1) An application to have coal land offered at public sale must bear across its face the notation provided by paragraph 7(a) of the circular of September 8, 1910, 39 L. D., 179; in the printed and posted notice of sale will appear the statement:

> This land will be sold in accordance with, and subject to, the provisions and reservations of the act of June 22, 1910 (36 Stat., 583).

The purchaser's consent to the reservation of the coal in the land to the United States will not be required, but the cash certificate and patent will contain, respectively, the provisions specified in paragraph 7(b) of said circular of September 8, 1910.

(2) In cases where offerings have been had, and sales made, of lands coming within the purview of the act of April 30, 1912, the purchasers may furnish their consent to receive patents, containing the limitation provided by said paragraph 7(b), and, thereupon, the entries may be confirmed and patents, limited as indicated, may issue.

Very respectfully,

FRED DENNETT, *Commissioner.*

Approved:

SAMUEL ADAMS,
First Assistant Secretary.

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CIRCULAR No. 117.

ACT APPROVED APRIL 30, 1912—OFFERINGS AT PUBLIC SALE OF ISOLATED TRACTS OF COAL LAND.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, May 23, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices.

GENTLEMEN: The act of Congress approved April 30, 1912, Public 141, provides:

That * * * unreserved public lands of the United States, exclusive of Alaska, which have been withdrawn or classified as coal lands, or are valuable for coal, shall * * * be subject * * * to disposition * * * under the laws providing for the sale of isolated or disconnected tracts of public lands, but there shall be a reservation to the United States of the coal in such lands so * * * sold, and of the right to prospect for, mine, and remove the same in accordance with the provisions of the act of June twenty-second, nineteen hundred and ten, and such lands shall be subject to all the conditions and limitations of said act.

The instructions of January 19, 1912, and April 30, 1912, issued under amended section 2455, Revised Statutes, should be followed in administering this act, in so far as they are applicable, and these instructions are issued in addition thereto:

(1) An application to have coal land offered at public sale must bear across its face the notation provided by paragraph 7(a) of the circular of September 8, 1910, 39 L. D., 179; in the printed and posted notice of sale will appear the statement:

This land will be sold in accordance with, and subject to, the provisions and reservations of the act of June 22, 1910 (36 Stat., 583).

The purchaser's consent to the reservation of the coal in the land to the United States will not be required, but the cash certificate and patent will contain, respectively, the provisions specified in paragraph 7(b) of said circular of September 8, 1910.

(2) In cases where offerings have been had, and sales made, of lands coming within the purview of the act of April 30, 1912, the purchasers may furnish their consent to receive patents, containing the limitation provided by said paragraph 7(b), and, thereupon, the entries may be confirmed and patents, limited as indicated, may issue.

Very respectfully,

FRED DENNETT, *Commissioner.*

Approved:
SAMUEL ADAMS,
First Assistant Secretary.

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IN REPLY PLEASE REFER TO--Circular No. 118.

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DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

May 24, 1912.

Report as to unappropriated lands called for.

Registers and Receivers,
United States Land Offices.

Gentlemen:

I inclose herewith a blank form (4-349) upon which you will report as herein directed the status of the unappropriated lands in your district on July 1, 1912, which you will obtain from the township plats, so far as the surveyed lands are concerned, as this office desires as accurate reports as is possible from the records of your office. As to the unsurveyed lands, you will proceed as in the past.

In the first column thereof you will give the names of the counties in or partly in your district containing public lands, OMITTING ALL COUNTIES IN WHICH THERE ARE NO UNAPPROPRIATED LANDS. The area of all lands in your district subject to settlement, entry or filing (which is to be understood as lands not included in a PERMANENT reservation for forestry, Indian or national park purposes), will be reported in the second, third, and fourth columns; those surveyed in the second; those unsurveyed in the third; and the aggregate surveyed and unsurveyed in the fourth.

The statement in the fifth column, as to the character of the vacant lands, should be as brief as practicable and may frequently be made in one or two words, as "Mountainous," "Broken," "Swampy," "Grazing lands," etc.

You will forward your report by special letter not later than July 10, even though it be necessary for you to suspend the greater part of the other work in your office while making same.

In making your report you will state that the data contained therein was obtained from the township plats and that all land in a permanent state of reservation has been excluded therefrom.

Very respectfully,

S. V. Proudfit

Assistant Commissioner.

Report mailed 7/1/12

the property of the United States; and have never been opened by proclamation of the President or provision of law for settlement, occupation or other disposition under the public land laws, except as provided in the act of February 26, 1897 (29 Stat., 599). This latter act in no manner affects the application of the city here, and it is not claiming any right thereunder.

These sites fall within the exterior limits of the Wasatch National Forest, created, after their said reservation, by proclamation of the President under section 24 of the act of March 3, 1891 (26 Stat., 1095), and it is this fact which is the basis of the city's application under the act of February 1, 1905, *supra*. The mere fact, however, that these lands thus fall within the exterior limits of the forest in no wise changes their status as reserved reservoir sites under the acts of 1888 and 1890, *supra*, and, as a consequence, the rejection of the pending application by the Commissioner of the General Land Office was proper.

That action is, therefore, affirmed.

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ALABAMA COAL LANDS—ACT OF APRIL 23, 1912.

Instructions.

Department of the Interior,
General Land Office,
Washington, May 24, 1912.

Register and Receiver,
United States Land Office,
Montgomery, Alabama.

Sirs: The following instructions are furnished for your guidance, in connection with the act of April 23, 1912 (Public, No. 129), providing for homestead entry of withdrawn coal lands in Alabama, subject to the conditions of the act of June 22, 1910 (36 Stat., 583):

(1) The lands referred to in the act include all tracts which were, prior to March 3, 1883, reported as containing valuable coal, and which were not under the provisions of the act of March 27, 1906 (34 Stat., 88), classified as agricultural in character.

(2) The circular of September 8, 1910 (39 L. D., 179), under the act of June 22, 1910, will govern proceedings with reference to these lands, so far as applicable, and except as herein modified.

(3) Prior to execution of a homestead application, it must bear across its face the notation provided by paragraph 7 (a) of the circular of September 8, 1910. You are cautioned that this notation may

not be placed by you upon the application after its execution and without applicant's consent. In the absence of the notation, you will treat the application as incomplete, and will allow applicant the usual time to perfect same.

(4) A number of entries heretofore inadvertently allowed for coal lands have been suspended, pending a possible offering of the various tracts involved under the provisions of the act of March 3, 1883 (22 Stat., 487). Under the proviso to section 1 of the act of June 22, 1910, these entries may be perfected, provided the claimants thereunder are willing to take patents containing the reservation, as to the coal, provided by paragraph 7 (b) of said circular.

You will, therefore, issue notice by registered letter to the claimants, advising them of the passage of the act of April 23, 1912, and of their right to now obtain patents, limited as indicated, on condition that they furnish their written consent to receive such patents.

The widow, heirs, devisee, or transferee of a claimant under a final entry may execute the consent above called for, proper evidence being furnished of their rights in the premises. With reference to the entries on which proof has not been submitted, the consent may be executed by the person to whom the homestead right passes by law, if the claimant himself is dead.

The instrument need not be acknowledged before an officer, but the claimant's signature should be witnessed by two persons.

You will, in due time, make report in each case separately, forwarding such papers as may be filed. If the consents are found to have been properly executed, and no adverse claims appear, the cases on which final proof has been submitted will, if otherwise regular, be approved for patenting, and patent, limited as indicated, will issue in due time. A list of the suspended cases is appended.

(5) There is at this time no law which provides for the disposition of the coal in these lands. Persons having homestead entries, pending or perfected, obtain no right to mine coal therefrom, except for their own domestic use, as appears from the first proviso to section 3 of the act of June 22, 1910.

(6) The second proviso to section 3 of the act of June 22, 1910, has no application to the Alabama lands, and claimants are not, therefore, entitled to contest the classification of the land and disprove its coal character.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved:

SAMUEL ADAMS,
First Assistant Secretary.

(PUBLIC, No. 129.)

An act extending the operation of the act of June twenty-second, nineteen hundred and ten, to coal lands in Alabama.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That unreserved public lands containing coal deposits in the State of Alabama which are now being withheld from homestead entry under the provisions of the act entitled "An act to exclude the public lands in Alabama from the operations of the laws relating to mineral lands," approved March third, eighteen hundred and eighty-three, may be entered under the homestead laws of the United States subject to the provisions, terms, conditions, and limitations prescribed in the act entitled "An act to provide for agricultural entries on coal lands," approved June twenty-second, nineteen hundred and ten.

Approved, April 23, 1912.

LAWS AND REGULATIONS RESPECTING BOUNTY-LAND WARRANTS.

CIRCULAR.

Registers and Receivers of United States Land Offices:

Warrants for bounty land were and are issued by the Commissioner of Pensions for services in wars or battles prior to March 3, 1855, only. Applications for the issuance thereof should be addressed to that official.

Pursuant to authority conferred by section 2414, Revised Statutes (Appendix B), and other legislation, the following regulations are prescribed to govern the assignment, location, and use of such warrants. All regulations inconsistent herewith are revoked.

You must refuse all warrants presented when the assignments thereof do not accord in every essential particular with the rules herein set forth. When the question of title or genuineness is in doubt you must decline to receive the warrant until the holders thereof have submitted the same to the General Land Office for examination and obtained a favorable decision thereon. This office will render an opinion without charge.

Bounty-land warrants should always be described by number, act, and acreage, and in all instances of use or attempted use the register and receiver must forthwith notify this office thereof by special letter, setting forth a description of the warrant and of the entry by serial number, date, land, and name of the entryman, and also whether the warrant was accepted or refused. If you accept the warrant, you will indorse on the upper left-hand corner of the face of same, a similar description of the entry in red ink.

I. ASSIGNMENTS.

1. No assignment of a warrant or power of attorney to sell or locate the same executed prior to the date of the issue thereof can be

recognized by this office. (Rev. Stat., sec. 2436.) Assignments must be in writing. Delivery only constitutes no transfer.

2. The assignment and acknowledgment are required to be indorsed as far as practicable upon the warrant. Should it be found necessary to write the entire assignment on a separate paper, which can only occur when prior assignments or acknowledgments have filled entirely the blank space on the warrant, it must be so attached as to show positively that the warrant assigned was in the hands of the party making the transfer. In such cases the signature of the assignor must be affixed in the presence of the officer before whom it is acknowledged, who must certify that at the date of the assignment the warrant was presented by and in possession of the assignor. (See Form No. 5.) The assignments should describe the warrant by number, act, and acreage. Parties should avoid discrepancies in spelling and write their full Christian names and surnames.

3. The same requirement must be observed in preparing acknowledgments of powers of attorney to sell or locate bounty-land warrants.

4. Blank assignments are void, and will not be recognized by this office. The name of an assignee should be written in the assignment before the warrant is sent to the local or General Land Office. Evidence that such assignee procured the warrant for value under the blank assignment may be required.

5. Each assignment or power of attorney must be attested by two subscribing witnesses. The mark of a witness will not be recognized.

6. A person to whom a warrant is transferred will not be recognized as a legal attesting witness to the assignment, nor as a proper officer to take the acknowledgment thereof.

7. The execution of assignments is required to be acknowledged by the assignor in the presence of a register or receiver of a land office, a judge or clerk of a court of record when authorized to take acknowledgments, a notary public, justice of the peace, a commissioner of deeds, or a United States commissioner, who shall certify to the fact of the acknowledgment and to the identity of the assignor. The official seal of said court, notary public, or commissioner shall be affixed to the certificate. When the acknowledgment is taken before a justice of the peace or other officer without an official seal (except a register or receiver of a land office), it must be accompanied by an additional certificate under seal of proper authority, establishing the official character of such official and the genuineness of his signature. (See Form No. 15.)

Powers of attorney must be acknowledged in like manner.

8. Assignments executed by unmarried females must be accompanied by evidence that they have attained the age of 21 years.

9. Assignments executed by a commissioner, or other designated person acting under a decree of court, must be accompanied by a duly

certified copy of such decree, in which all the proceedings should be recited, and from which it must appear that due, proper, and legal notice of the proceedings had been given to all parties in interest. The jurisdiction of the court must appear. Where assignments can not be procured, the Commissioner of the General Land Office will determine the title to a bounty-land warrant according to the principles and usages of law and equity.

10. Where two assignments exist executed by the same party in favor of different individuals, whether the assignment first in time has been completed or not, to make the second assignment available it must be established by evidence satisfactory to the General Land Office, either that no title passed under the first assignment or that all claims thereunder have been transferred to the second assignee, renounced, or abandoned.

11. When the name of a person has been inserted in an assignment of a warrant and erased, there should be filed evidence satisfactory to this office consisting of an affidavit, duly authenticated, of the assignor or party or parties by whom said name was inserted and the erasure made, fully explaining the facts and circumstances of such insertion and erasure, and stating that no transfer or delivery of said warrant was made to the party whose name had been so inserted, and that the ownership or custody of said warrant had not been changed by such insertion, which affidavit shall be accompanied by satisfactory evidence that a copy of the same has been served personally or by registered letter upon the party whose name was inserted. The affidavit should set forth that the further object thereof is to afford such party an opportunity to file a protest in the General Land Office against the use of the warrant. When the name of a bona fide assignee has been erased from a transfer, an assignment from said assignee to the present holder of the warrant will be required to perfect the title to the warrant. Material erasures in powers of attorney must be satisfactorily explained.

12. When the assignment of a warrant is executed in a foreign country, and the acknowledgment taken by an officer authorized by the laws thereof to perform such duties, the attestation of the American consul in such country should be obtained as to the official character and genuineness of the signature of such official. If the official character, etc., of the foreign officer is attested by a consular agent of such foreign Government residing in this country, the latter's official character must be certified by the diplomatic representatives of such Government in the United States. When such assignments are executed in a foreign language duly authenticated translations thereof must be furnished. Secretaries of legation and consular officers of the United States are authorized to take acknowledgments, but they must certify the same under their official seals.

13. When the persons named as warrantees are described in the warrant as minors, their assignments thereof must be accompanied by satisfactory evidence that they had attained their majority at the date of the transfer.

14. When an assignment has been executed and witnessed, but not acknowledged, it may be proved in open court, but a certified transcript of the proceedings must be attached to the warrant. Such unacknowledged assignment may also be established to the satisfaction of the General Land Office by competent evidence. When such assignment has not been properly attested, it must be made anew.

15. When an assignment is made by an Indian residing among whites the prescribed form will be adopted with this addition, that the officer taking the acknowledgment shall certify that the Indian is capable of contracting the amount paid for the warrant, and that he saw the same paid to the Indian.

16. Where it is made by an Indian holding tribal relations, his identity and ability to contract must be certified by the superintendent of Indian affairs or Indian agent, either of his own knowledge or on the testimony of the chiefs certifying to the amount paid for said warrant; that the same was paid in his presence; and that the transaction was fair and regular. In either case, if the amount paid is not a fair consideration, the assignment will be disregarded.

17. Where a warrant for the service of an Indian is issued or descends to minors who no longer retain their tribal relations, it must be located or sold by a guardian duly appointed and authorized by the proper court for that purpose.

Where the minor or minors retain their tribal relations, the agent or superintendent must certify that they are entitled to the warrant under the laws, usages, and customs of the tribe; and when sold or located, that it was done by the guardian or such proper representative as, according to said laws, usages, and customs, was fully authorized.

Where the signature of a superintendent or an Indian agent is required, the genuineness of the signature of that officer must be certified to by the Commissioner of Indian Affairs.

18. Prior to June 3, 1858, bounty-land warrants were regarded as real estate. Consequently a transfer of a warrant before that date by an administrator must be accompanied by evidence that the same was made in pursuance of an order of court for the sale of the real estate of the decedent.

By the act of June 3, 1858 (11 Stat., 308), bounty-land warrants were declared to be personal chattels, and, as such, assignable by the warrantees, by their widows in certain cases, by their heirs or legatees, or by the legal representatives of the deceased claimant " for the use of the heirs or legatees only."

It follows that the right to assign inures to the assignees of the vendors named above, and to their heirs, legatees, or legal representatives; but these latter are not required to assign "for the use of the heirs or legatees only."

19. Where a warrant has been issued in the name of a deceased soldier, who had applied therefor before his death, the title thereto is declared by section 2444, Revised Statutes (Appendix J), to vest in the widow, if there be one, and if there be no widow, then in the heirs or legatees of the claimant.

20. If the claimant died and left a widow, who also was deceased before the issue of the warrant, then the title thereto vests in the heirs or legatees of the warrantee.

21. To make a warrant issued in the name of a deceased person available it should be accompanied by a certificate under seal from the proper court having probate jurisdiction, showing the fact of the death of the warrantee at a specified date and place, and whether he left a widow, giving her name, if there was one. If there was no widow the said certificate should state whether the warrantee died testate or intestate and give the names of all his heirs at law, specifying adults and minors. Where the assignee of a warrant is deceased a similar certificate should be exhibited setting forth the fact, time, and place of death, his testacy or intestacy, and, in the event he left no will, the names, ages, and places of residence of all the heirs.

22. If it shall appear from such certificate that the warrantee died before the issue of the warrant and left a widow, the assignment of such widow, her heirs, or legal representatives will be a sufficient conveyance of the warrant.

23. If the warrantee died after the issue of the warrant, or if he died before such issue and left no widow, the title vests in his heirs at law or legatees.

24. If he died intestate his heirs, shown to be such by the required certificate of court, may assign the warrant, the adults for themselves and the minors by their guardians, who shall file with the warrant a certified copy of their letters of guardianship or a certificate from the clerk of the proper court stating that such letters had been issued and that they were in force at the date of the assignment.

Or the administrator of the estate of the deceased warrantee who died intestate may assign the warrant "for the use of the heirs or legatees only," upon filing therewith a certified transcript of the letters of administration or a certificate from the clerk of the proper court that the said letters had been issued and that they were in force at the date of the assignment. (See Form No. 6.) Satisfactory evidence may also be required to show that the administrator was appointed at the instance of the heirs or proper parties in interest and transferred the warrant for their benefit.

25. If the warrantee or his assignee died testate a certified transcript of the will must accompany the warrant. If the will specifically disposes of the warrant the legatee or legatees may assign, if adults, in the usual form; if minors, by their guardians as aforesaid. If the will does not specifically dispose of the warrant the executor of the estate of the warrantee may assign "for the use of the heirs or legatees only," but in that case a certified transcript of the letters testamentary or a certificate from the proper authority that such letters had been granted and were in force at the date of the assignment must accompany the transfer. (See Form No. 8.)

26. An assignment executed by an administrator de bonis non, with the will annexed, of the estate of the deceased warrantee or transferee must be prepared in accordance with the Form No. 8 prescribed to be used by an executor and accompanied by evidence of his authority to act as required in the case of an administrator of the estate of a warrantee who died intestate.

II. LOCATIONS.

27. Bounty-land warrants may be located by one or more persons who are citizens of the United States or have declared their intention to become such, and have reached majority or by a corporation capable of acquiring and holding the legal title to real property in the jurisdiction where the lands sought lie upon any vacant, surveyed, nonmineral, nonsaline, unreserved, unappropriated public lands of the United States that may be subject to private entry at the time of such location. As no public lands of the United States, except those in the State of Missouri, have been subject to private entry since the passage of the act of March 2, 1889 (25 Stat., 854), such warrants can be located in Missouri only, without any residence upon, cultivation, or improvement of the land. (See Appendix C.)

A corporation locating a land warrant should submit a copy of its charter or articles of incorporation, from which it must appear that it is empowered to acquire and hold realty in said jurisdiction. Said copy should be certified to by some State or county officer who is required by law to have custody of such charter or articles, and who must also certify that the same have not been annulled or in anywise revoked.

A warrant may also be located on behalf of minor heirs or legatees of the soldier upon whose service the same was predicated. Such location must be made in the names of the heirs or legatees and may be made by guardian, who must procure all necessary judicial authority.

28. A warrant can not be located if assigned so as to vest any one person with a greater interest than any other. In other words, each

owner of a warrant at the time of its location must have an equal interest therein. This does not apply to locations by persons in their capacity as heirs.

29. A warrant may be located either at a district land office (see rule 27) or through the agency of this office (Rev. Stat., sec. 2437). If located at a district office, it must be accompanied by a tender of the fees to which the register and receiver are entitled, and by a written application to locate containing a description of the tracts desired and signed by the locator or his attorney in fact. If by the latter, his authority to act must be evidenced by a power of attorney, prepared in accordance with Form No. 14, and indorsed, if practicable, upon the warrant. (See rule No. 2.)

Persons presenting warrants for use or location should furnish affidavits that they are the identical persons to whom the same were issued or assigned, and also a relinquishment thereof to the United States, as follows:

I (or we) do hereby relinquish to the United States the within bounty-land warrant in payment (or in part payment, as the case may be) of the (here describe the tract), located in the name of ——— ———, at the land office at ———, this —— day of ———, 19—.

[SEAL.] (Signed) A B.

Witnesses:
C D.
E F.

The following requirements will also govern in locations, but not in homestead, preemption, or other cases mentioned in the act of December 13, 1894 (28 Stat., 594):

(*a*) The location must be accompanied by the affidavit of the locator or some credible person possessed of the requisite personal knowledge in the premises showing that the land located is not in any manner occupied adversely to the locator, and also a nonsaline affidavit (Form 4–062A).

In jurisdictions where the mineral laws of the United States are applicable you will also require a nonmineral affidavit, Form 4–062. The affidavit of the locator as to the nonmineral and nonsaline character of the land, and that it is not occupied adversely, may be made on Form 4–061a, modified by striking out reference to the act of June 4, 1897.

(*b*) You will require the locator within 20 days from the filing of his location to begin publication of notice thereof, at his own expense, in a newspaper to be designated by the register as of general circulation in the vicinity of the land and to be the nearest thereto. Such publication must cover a period of 30 days, during which time a similar notice of the location must be posted in the local land office and upon the land included in the location.

CIRCULAR No. 125.

ENACTMENT OF THREE-YEAR HOMESTEAD LAW.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, June 10, 1912.

SIR: There is printed below a copy of an act passed by Congress, and signed by the President on June 6, 1912, amending sections 2291 and 2297 of the Revised Statutes of the United States relating to homesteads and homestead entries. I call your particular attention to the last proviso to section 2291, reading as follows:

Provided, That the Secretary of the Interior shall, within sixty days after the passage of this act, send a copy of the same to each homestead entryman of record who may be affected thereby by ordinary mail to his last known address, and any such entryman may, by giving notice within one hundred and twenty days after the passage of this act, by registered letter to the register and receiver of the local land office, elect to make proof upon his entry under the law under which the same was made without regard to the provisions of this act.

If you wish to elect to make proof upon your entry under the law under which the same was made, you must give notice thereof within 120 days after June 6, 1912, TO THE REGISTER AND RECEIVER OF THE LOCAL LAND OFFICE. This notice must be sent by REGISTERED mail and may not be sent in any other way. If, in your case, you desire to make proof under the law under which you made your entry, there is, for your convenience, inclosed herewith a printed notice of election, which you may fill out and use for that purpose.

Unless you elect in the manner and form and within the time above stated your entry will, without notice, become subject to the provisions of said act of June 6, 1912; and in reaching a decision as to which course you prefer you should first carefully examine the provisions and requirements of the new act printed herewith.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved:
WALTER L. FISHER,
Secretary.

47936°—12

[Public—No. 179.]

AN ACT To amend section twenty-two hundred and ninety-one and section twenty-two hundred and ninety-seven of the Revised Statutes of the United States relating to homesteads.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twenty-two hundred and ninety-one and section twenty-two hundred and ninety-seven of the Revised Statutes of the United States be amended to read as follows:

"SEC. 2291. No certificate, however, shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if he be dead his widow, or in case of her death his heirs or devisee, or in case of a widow making such entry her heirs or devisee, in case of her death, proves by himself and by two credible witnesses that he, she, or they have a habitable house upon the land and have actually resided upon and cultivated the same for the term of three years succeeding the time of filing the affidavit, and makes affidavit that no part of such land has been alienated, except as provided in section twenty-two hundred and eighty-eight, and that he, she, or they will bear true allegiance to the Government of the United States, then in such case he, she, or they, if at that time citizens of the United States, shall be entitled to a patent, as in other cases provided by law: *Provided,* That upon filing in the local land office notice of the beginning of such absence, the entryman shall be entitled to a continuous leave of absence from the land for a period not exceeding five months in each year after establishing residence, and upon the termination of such absence the entryman shall file a notice of such termination in the local land office, but in case of commutation the fourteen months' actual residence as now required by law must be shown, and the person commuting must be at the time a citizen of the United States: *Provided,* That when the person making entry dies before the offer of final proof those succeeding to the entry must show that the entryman had complied with the law in all respects to the date of his death and that they have since complied with the law in all respects, as would have been required of the entryman had he lived, excepting that they are relieved from any requirement of residence upon the land: *Provided further,* That the entryman shall, in order to comply with the requirements of cultivation herein provided for, cultivate not less than one-sixteenth of the area of his entry, beginning with the second year of the entry, and not less than one-eighth, beginning with the third year of the entry, and until final proof, except that in the case of entries under section six of the enlarged-homestead law double the area of cultivation herein provided shall be required, but the Secretary of the Interior may, upon a satisfactory showing, under rules and regulations prescribed by him, reduce the required area of cultivation: *Provided,* That the above provision as to cultivation shall not apply to entries under the act of April twenty-eighth, nineteen hundred and four, commonly known as the Kinkaid Act, or entries under the act of June seventeenth, nineteen hundred and two, commonly known as the reclamation act, and that the provisions of this section relative to the homstead period shall apply to all unperfected entries as well as entries hereafter made upon which residence is required: *Provided,* That the Secretary of the Interior shall, within sixty days after the passage of this act, send a copy of the same to each homestead entryman of record who may be affected thereby, by ordinary mail to his last known address, and any such entryman may, by giving notice within one hundred and twenty days after the passage of this act, by registered letter to the register and receiver of the local land office, elect to make proof upon his entry under the law under which the same was made without regard to the provisions of this act."

"SEC. 2297. If, at any time after the filing of the affidavit as required in section twenty-two hundred and ninety and before the expiration of the three years mentioned in section twenty-two hundred and ninety-one, it is proved, after due notice to the settler, to the satisfaction of the register of the land office that the person having filed such affidavit has failed to establish residence within six months after the date of entry, or abandoned the land for more than six months at any time, then and in that event the land so entered shall revert to the Government: *Provided,* That the three years' period of residence herein fixed shall date from the time of establishing actual permanent residence upon the land: *And provided further,* That where there may be climatic reasons, sickness, or other unavoidable cause, the Commissioner of the General Land Office may, in his discretion, allow the settler twelve months from the date of filing in which to commence his residence on said land under such rules and regulations as he may prescribe."[1]

Approved, June 6, 1912.

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CIRCULAR No. 125.

ENACTMENT OF THREE-YEAR HOMESTEAD LAW.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, June 10, 1912.

SIR: There is printed below a copy of an act passed by Congress, and signed by the President on June 6, 1912, amending sections 2291 and 2297 of the Revised Statutes of the United States relating to homesteads and homestead entries. I call your particular attention to the last proviso to section 2291, reading as follows:

> *Provided*, That the Secretary of the Interior shall, within sixty days after the passage of this act, send a copy of the same to each homestead entryman of record who may be affected thereby by ordinary mail to his last known address, and any such entryman may, by giving notice within one hundred and twenty days after the passage of this act, by registered letter to the register and receiver of the local land office, elect to make proof upon his entry under the law under which the same was made without regard to the provisions of this act.

If you wish to elect to make proof upon your entry under the law under which the same was made, you must give notice thereof within 120 days after June 6, 1912, TO THE REGISTER AND RECEIVER OF THE LOCAL LAND OFFICE. This notice must be sent by REGISTERED mail and may not be sent in any other way. If, in your case, you desire to make proof under the law under which you made your entry, there is, for your convenience, inclosed herewith a printed notice of election, which you may fill out and use for that purpose.

Unless you elect in the manner and form and within the time above stated your entry will, without notice, become subject to the provisions of said act of June 6, 1912; and in reaching a decision as to which course you prefer you should first carefully examine the provisions and requirements of the new act printed herewith.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved:
WALTER L. FISHER,
Secretary.

47936°—12

[Public—No. 179.]

AN ACT To amend section twenty-two hundred and ninety-one and section twenty-two hundred and ninety-seven of the Revised Statutes of the United States relating to homesteads.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twenty-two hundred and ninety-one and section twenty-two hundred and ninety-seven of the Revised Statutes of the United States be amended to read as follows:

"SEC. 2291. No certificate, however, shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if he be dead his widow, or in case of her death his heirs or devisee, or in case of a widow making such entry her heirs or devisee, in case of her death, proves by himself and by two credible witnesses that he, she, or they have a habitable house upon the land and have actually resided upon and cultivated the same for the term of three years succeeding the time of filing the affidavit, and makes affidavit that no part of such land has been alienated, except as provided in section twenty-two hundred and eighty-eight, and that he, she, or they will bear true allegiance to the Government of the United States, then in such case he, she, or they, if at that time citizens of the United States, shall be entitled to a patent, as in other cases provided by law: *Provided*, That upon filing in the local land office notice of the beginning of such absence, the entryman shall be entitled to a continuous leave of absence from the land for a period not exceeding five months in each year after establishing residence, and upon the termination of such absence the entryman shall file a notice of such termination in the local land office, but in case of commutation the fourteen months' actual residence as now required by law must be shown, and the person commuting must be at the time a citizen of the United States: *Provided*, That when the person making entry dies before the offer of final proof those succeeding to the entry must show that the entryman had complied with the law in all respects to the date of his death and that they have since complied with the law in all respects, as would have been required of the entryman had he lived, excepting that they are relieved from any requirement of residence upon the land: *Provided further*, That the entryman shall, in order to comply with the requirements of cultivation herein provided for, cultivate not less than one-sixteenth of the area of his entry, beginning with the second year of the entry, and not less than one-eighth, beginning with the third year of the entry, and until final proof, except that in the case of entries under section six of the enlarged-homestead law double the area of cultivation herein provided shall be required, but the Secretary of the Interior may, upon a satisfactory showing, under rules and regulations prescribed by him, reduce the required area of cultivation: *Provided*, That the above provision as to cultivation shall not apply to entries under the act of April twenty-eighth, nineteen hundred and four, commonly known as the Kinkaid Act, or entries under the act of June seventeenth, nineteen hundred and two, commonly known as the reclamation act, and that the provisions of this section relative to the homstead period shall apply to all unperfected entries as well as entries hereafter made upon which residence is required: *Provided*, That the Secretary of the Interior shall, within sixty days after the passage of this act, send a copy of the same to each homestead entryman of record who may be affected thereby, by ordinary mail to his last known address, and any such entryman may, by giving notice within one hundred and twenty days after the passage of this act, by registered letter to the register and receiver of the local land office, elect to make proof upon his entry under the law under which the same was made without regard to the provisions of this act."

"SEC. 2297. If, at any time after the filing of the affidavit as required in section twenty-two hundred and ninety and before the expiration of the three years mentioned in section twenty-two hundred and ninety-one, it is proved, after due notice to the settler, to the satisfaction of the register of the land office that the person having filed such affidavit has failed to establish residence within six months after the date of entry, or abandoned the land for more than six months at any time, then and in that event the land so entered shall revert to the Government: *Provided*, That the three years' period of residence herein fixed shall date from the time of establishing actual permanent residence upon the land: *And provided further*, That where there may be climatic reasons, sickness, or other unavoidable cause, the Commissioner of the General Land Office may, in his discretion, allow the settler twelve months from the date of filing in which to commence his residence on said land under such rules and regulations as he may prescribe."

Approved, June 6, 1912.

Circular No. 126. "A" McD

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

June 11, 1912.

SPECIAL

: Promulgation of act
: of June 6, 1912.

5324 mailed

Registers and Receivers,

United States Land Offices.

Sirs:

Under separate cover there has been mailed you a supply of Circular No. 125, relative to the act of June 6, 1912, amending Secs. 2291 and 2297 of the Revised Statutes relating to homestead entries.

You will immediately mail one copy to each homestead entryman in your district, BY ORDINARY MAIL, to his last-known address, inclosing therewith an "Election to make proof under law under which entry was made," a supply of which has also been sent you. Any Office failing to receive a supply of the circulars or of the blank forms within five days after the receipt of this circular, should advise this office by telegraph.

The Department is also mailing to each office a supply of envelopes sufficient to mail the circulars.

When you have complied herewith, report to this office by letter the exact number of circulars mailed, giving the date when the work was completed.

Very respectfully,

Fred Dennett

Commissioner.

SPECIAL

IN REPLY PLEASE RE[illegible] TO--Circular No. 127

"FS" HLU

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE.

Washington June 11, 1912.

: Applications to practice

Registers and Receivers, : before local offices.

Sirs:

Hereafter whenever there is filed with you an application to practice as agent or attorney before your office you will defer action thereon, advise the Chief of Field Division of the filing thereof, and await his report on the same. Where the Chief of Field Division advises you that there is no objection on his part to the admission of the applicant you will proceed to act upon the same in the usual way and in your report on Form 4-285 to this office you will state that the Chief has reported favorably on the application. In case he reports that he desires to make a report to this office you will further defer action until receipt of advice from this office.

Very respectfully,

Fred Dennett

Commissioner.

6-10 HCG

CONFIDENTIAL
NOT FOR PUBLIC INSPECTION

IN REPLY PLEASE REFER TO--Circular No. 127.

"FS" HLU

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

June 11, 1912.

: Applications to practice
: before local offices.

Registers and Receivers,

Sirs:

Hereafter whenever there is filed with you an application to practice as agent or attorney before your office you will defer action thereon, advise the Chief of Field Division of the filing thereof, and await his report on the same. Where the Chief of Field Division advises you that there is no objection on his part to the admission of the applicant you will proceed to act upon the same in the usual way and in your report on Form 4-285 to this office you will state that the Chief has reported favorably on the application. In case he reports that he desires to make a report to this office you will further defer action until receipt of advice from this office.

Very respectfully,

Fred Dennett

6-10 HCG

Commissioner.

Part 270.1
CFR 43

still in effect 5/20/54 KB

CIRCULAR No. 128.

SELECTIONS BY STATES OF LANDS WITHDRAWN, CLASSIFIED, OR VALUABLE FOR COAL.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, June 14, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices.

SIRS: Your attention is directed to the act of Congress approved April 30, 1912 (Public, No. 141), entitled "An act to supplement the act of June twenty-second, nineteen hundred and ten, entitled 'An act to provide for agricultural entries on coal lands,'" a copy of which is hereto attached.

The act of June 22, 1910 (36 Stat., 583), entitled "An act to provide for agricultural entries on coal lands," provided that the public lands of the United States, exclusive of Alaska, which have been withdrawn or classified as coal lands, or are valuable for coal, shall be subject to appropriate entry under the homestead laws by actual settlers only, the desert land law in tracts not exceeding 160 acres, to selection under section 4 of the act approved August 18, 1894 (28 Stat., 422), known as the Carey Act, and to withdrawal under the act approved June 17, 1902 (32 Stat., 388), known as the reclamation act.

By this act (Apr. 30, 1912), the privileges granted in certain cases, as enumerated above, by the act of June 22, 1910, *supra*, are extended to the several States in making selections of lands in satisfaction of grants made by Congress. It is further provided that the Secretary of the Interior may, in his discretion, dispose of any isolated or disconnected tracts, under the laws providing for the sale of such tracts of public land. The conditions and reservations as prescribed by the former act are embodied in this act unchanged.

It will be your duty to accept, subject to future approval, selections, otherwise unobjectionable, presented by the several States in satisfaction of congressional grants, embracing lands withdrawn or classified as coal lands, or valuable for coal, if accompanied by a certificate or statement, in case of each application to select, of the officer or officers authorized to act for and in behalf of the State, to the effect that the application is made in accordance with, and subject to, the provisions and reservations of the act of June 22, 1910 (36 Stat., 583), as supplemented by the act of April 30, 1912 (Public, No. 141).

Should the State deny the existence of coal in the land sought to be selected you will proceed in accordance with existing regulations in such cases.

In relation to selections made by some of the States, prior to the passage of this act, of lands withdrawn or classified as coal, you are informed that the department held, under date of May 18, 1912, in such a case from Wyoming (Lander, 05040), on appeal, as follows:

The tender or filing of a school-land indemnity selection by a State in lieu of lands lost by it in place constitutes a mere offer to exchange, confers no vested right upon the selector and does not prevent the taking or withholding of the land by the United States for public uses or purposes. The transaction is not complete, nor does the right of the State vest until the acceptance and approval of the offer of exchange by the Secretary of the Interior. School indemnity selections offered by States for lands classified as coal or known to be valuable for such deposits could not, prior to April 30, 1912, be accepted or approved; but these selections offered and pending at the date of passage of the act of April 30, 1912, may, in the absence of intervening adverse rights, and upon proper election filed by the States, now be allowed and accepted as of April 30, 1912, if there be no other objection. * * *

Very respectfully,

S. V. PROUDFIT,
Assistant Commissioner.

[PUBLIC—No. 141.]

AN ACT To supplement the act of June twenty-second, nineteen hundred and ten, entitled "An act to provide for agricultural entries on coal lands."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act unreserved public lands of the United States, exclusive of Alaska, which have been withdrawn or classified as coal lands or are valuable for coal shall, in addition to the classes of entries or filings described in the act of Congress approved June twenty-second, nineteen hundred and ten, entitled "An act to provide for agricultural entries on coal lands," be subject to selection by the several States within whose limits the lands are situate, under grants made by Congress, and to disposition, in the discretion of the Secretary of the Interior, under the laws providing for the sale of isolated or disconnected tracts of public lands, but there shall be a reservation to the United States of the coal in all such lands so selected or sold and of the right to prospect for, mine, and remove the same in accordance with the provisions of said act of June twenty-second, nineteen hundred and ten, and such lands shall be subject to all the conditions and limitations of said act.

Approved, April 30, 1912.

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Mount Diablo Meridian.

	Irrigable Area.
T. 17 N., R. 29 E.	
Sec. 8, SE. ¼ SW. ¼	40 acres.
T. 19 N., R. 31 E.	
Sec. 18, NE. ¼ NE. ¼	38 acres.
Sec. 17, NW. ¼ NW. ¼	38 acres.
T. 20 N., R. 26 E.	
Sec. 26, farm unit "H"	79 acres.

The suspension by order dated September 16, 1910, of public notices theretofore issued and of farm unit plats theretofore filed for said project, is hereby revoked and annulled as to the lands above listed in so far as the same are affected thereby.

Homestead entries, applications for water rights, the charges, time and manner of payments, shall be governed by the terms of the public notices and orders heretofore issued, except that the first installment of the charges for building, operation and maintenance shall become due December 1, 1912.

SAMUEL ADAMS,
First Assistant Secretary of the Interior.

SELECTIONS BY STATES OF LANDS WITHDRAWN, CLASSIFIED, OR VALUABLE FOR COAL.

CIRCULAR.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, June 14, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices.

SIRS: Your attention is directed to the act of Congress approved April 30, 1912 (Public, No. 141), entitled "An act to supplement the act of June twenty-second, nineteen hundred and ten, entitled 'An act to provide for agricultural entries on coal lands.'" a copy of which is hereto attached.

The act of June 22, 1910 (36 Stat., 583), entitled "An act to provide for agricultural entries on coal lands," provided that the public lands of the United States, exclusive of Alaska, which have been withdrawn or classified as coal lands, or are valuable for coal, shall be subject to appropriate entry under the homestead laws by actual settlers only, the desert land law in tracts not exceeding 160 acres, to selection under section 4 of the act approved August 18, 1894 (28 Stat., 422), known as the Carey Act, and to withdrawal under

#128
41 LD 89

the act approved June 17, 1902 (32 Stat., 388), known as the reclamation act.

By this act (April 30, 1912), the privileges granted in certain cases, as enumerated above, by the act of June 22, 1910, *supra*, are extended to the several States in making selections of lands in satisfaction of grants made by Congress. It is further provided that the Secretary of the Interior may, in his discretion, dispose of any isolated or disconnected tracts, under the laws providing for the sale of such tracts of public land. The conditions and reservations as prescribed by the former act are embodied in this act unchanged.

It will be your duty to accept, subject to future approval, selections, otherwise unobjectionable, presented by the several States in satisfaction of congressional grants, embracing lands withdrawn or classified as coal lands, or valuable for coal, if accompanied by a certificate or statement, in case of each application to select, of the officer or officers authorized to act for and in behalf of the State, to the effect that the application is made in accordance with, and subject to, the provisions and reservations of the act of June 22, 1910 (36 Stat., 583), as supplemented by the act of April 30, 1912 (Public, No. 141).

Should the State deny the existence of coal in the land sought to be selected you will proceed in accordance with existing regulations in such cases.

In relation to selections made by some of the States, prior to the passage of this act, of lands withdrawn or classified as coal, you are informed that the department held, under date of May 18, 1912, in such a case from Wyoming (Lander, 05040), on appeal, as follows:

> The tender or filing of a school-land indemnity selection by a State in lieu of lands lost by it in place constitutes a mere offer to exchange, confers no vested right upon the selector and does not prevent the taking or withholding of the land by the United States for public uses or purposes. The transaction is not complete, nor does the right of the State vest until the acceptance and approval of the offer of exchange by the Secretary of the Interior. School indemnity selections offered by States for lands classified as coal or known to be valuable for such deposits could not, prior to April 30, 1912, be accepted or approved; but these selections offered and pending at the date of passage of the act of April 30, 1912, may, in the absence of intervening adverse rights, and upon proper election filed by the States, now be allowed and accepted as of April 30, 1912, if there be no other objection.

Very respectfully,

S. V. PROUDFIT,
Assistant Commissioner.

SAMUEL ADAMS,
First Assistant Secretary.

[PUBLIC—No. 141.]

AN ACT To supplement the act of June twenty-second, nineteen hundred and ten, entitled "An act to provide for agricultural entries on coal lands."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act

CIRCULAR No. 129.

EXAMINATION OF PAPERS BEFORE FORWARDING TO GENERAL LAND OFFICE.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., June 15, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices.

SIRS: The very large number of defective annual and final proofs and other papers coming to this office show an inexcusable lack of either proper information and qualifications or of proper examination and care on the part of some of the local offices before forwarding them.

Thus, some hundreds of what should be unnecessary letters are required to point out and condemn defects in annual proofs, relying on expenditure for fence construction, in which only the purchase of the material is indicated, but no actual construction of the proposed fence disclosed. Other proofs sufficient in this particular are inacceptable because they do not affirmatively disclose the location of the constructed fence *upon the lands of the entry* to which the proof relates. Applications and annual and final proofs are often insufficient because the necessary oath has been administered by an official not residing in the county where the lands entered are situated and because the affidavit submitted for the purpose of explaining resort to an officer in another county is so unspecific and ambiguous in statement as not to clearly or at all disclose the fact that the officiating officer resided at a place near to, or more accessible from, *the entered land* than did any qualified officer residing in the county in which the land is situated.

No great amount of official labor, skill, or intelligence is required for the careful examination of these papers and the detection of such manifest insufficiencies, but the experience of this office has been such as to indicate that none but the most perfunctory examination is accorded them.

Officers by whom proof and other papers are prepared owe it to the good of the public service, and especially to the persons for whom they are acting, to see to it that all proofs and papers are properly prepared and that they state all essential facts and are supported by all necessary showings.

Registers and receivers should use especial care to see that their clerks and United States commissioners and other officers by whom proofs and papers are prepared fully inform themselves and carefully perform their duties, and commissioners and other officers who fail to do so should not be designated to take proofs.

All proofs and papers should be carefully examined as far as possible before they are filed in the local offices and in all cases before they are forwarded to this office, and the persons filing them should be notified of any defects therein and given ample opportunity to perfect them before they leave the local offices. Such a course would largely prevent vexatious delays and greatly relieve entrymen from much unnecessary trouble and expense, which too often give them just cause for complaint, and it would greatly expedite the work of this office.

Your hearty cooperation in the improvement of the service in this matter is requested and will be expected.

Very respectfully,

FRED DENNETT,
Commissioner.

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CIRCULAR No. 129.

EXAMINATION OF PAPERS BEFORE FORWARDING TO GENERAL LAND OFFICE.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., June 15, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices.

SIRS: The very large number of defective annual and final proofs and other papers coming to this office show an inexcusable lack of either proper information and qualifications or of proper examination and care on the part of some of the local offices before forwarding them.

Thus, some hundreds of what should be unnecessary letters are required to point out and condemn defects in annual proofs, relying on expenditure for fence construction, in which only the purchase of the material is indicated, but no actual construction of the proposed fence disclosed. Other proofs sufficient in this particular are inacceptable because they do not affirmatively disclose the location of the constructed fence *upon the lands of the entry* to which the proof relates. Applications and annual and final proofs are often insufficient because the necessary oath has been administered by an official not residing in the county where the lands entered are situated and because the affidavit submitted for the purpose of explaining resort to an officer in another county is so unspecific and ambiguous in statement as not to clearly or at all disclose the fact that the officiating officer resided at a place near to, or more accessible from, *the entered land* than did any qualified officer residing in the county in which the land is situated.

No great amount of official labor, skill, or intelligence is required for the careful examination of these papers and the detection of such manifest insufficiencies, but the experience of this office has been such as to indicate that none but the most perfunctory examination is accorded them.

Officers by whom proof and other papers are prepared owe it to the good of the public service, and especially to the persons for whom they are acting, to see to it that all proofs and papers are properly prepared and that they state all essential facts and are supported by all necessary showings.

Registers and receivers should use especial care to see that their clerks and United States commissioners and other officers by whom proofs and papers are prepared fully inform themselves and carefully perform their duties, and commissioners and other officers who fail to do so should not be designated to take proofs.

All proofs and papers should be carefully examined as far as possible before they are filed in the local offices and in all cases before they are forwarded to this office, and the persons filing them should be notified of any defects therein and given ample opportunity to perfect them before they leave the local offices. Such a course would largely prevent vexatious delays and greatly relieve entrymen from much unnecessary trouble and expense, which too often give them just cause for complaint, and it would greatly expedite the work of this office.

Your hearty cooperation in the improvement of the service in this matter is requested and will be expected.

Very respectfully,

FRED DENNETT,
Commissioner.

○

IN REPLY PLEASE REFER TO--Circular No. 130.

"M" FTL 1 Inc.

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

June 17, 1912.

RETURNS: Classified "Schedule of Allowances."

Registers and Receivers,
United States Land Offices.

Sirs:

Referring to paragraph 43, Circular No. 105, May 4, 1912, Revision of Circular June 10, 1908, there is inclosed herewith, for your information, sample of "Schedule of Allowances" (form 4-115d, new).

As provided by above-mentioned instructions, this schedule must be furnished, in duplicate, with your monthly returns, beginning with July, 1912. Please note that there must be shown thereon, IN NUMERICAL ORDER AND WITHOUT REGARD TO CLASS, all applications, declarations, selections, locations, original and final entries, etc., which are allowed, and private and public sales held, upon which final certificates have issued, during the month shown at the top thereof, without regard to whether the papers pertaining thereto are held in your office, or transmitted with the monthly returns, or have been forwarded by special letters. If held, or transmitted by special letters, proper notation must be made in the "Remarks" column, as, "Held (giving reason)" or "To GLO (giving date of special transmittal)." Care must be observed to show, in each instance, day of allowance; serial and receipt numbers; kind of application, entry, etc., and date or dates of special acts of Congress under which authorized; area and amount involved. Before transmittal of the schedule, all items reported thereon must be carefully compared with the "Summary" at the bottom thereof.

In this connection, your attention is called to paragraphs 67, 68, and 193 to 196, inclusive, above mentioned instructions.

The Register and Receiver will please acknowledge receipt hereof on inclosed postal card.-~~mentioned instructions.~~

Very respectfully,

Fred Dennett

6-14-ACY

Commissioner.

IN REPLY PLEASE REFER TO--Circular No.131.
"N" - WJH

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

June 17, 1912.

Notice of amendment of paragraph 33, Mining Regulations.

Registers and Receivers,

United States Land Offices.

Sirs:

By order dated June 4, 1912, paragraph 33 of the Mining Regulations, approved March 29, 1909, was amended by the Department to read as follows:

In order that the conditions imposed by the proviso, as set forth in the above paragraph, may duly appear, the application for patent must contain or be accompanied by a specific statement under oath by each person whose name appears therein that he never has, either as an individual or as a member of an association, located or entered any other lands under the provisions of this act. The application for patent should also be accompanied by a showing under oath, fully disclosing the qualifications as defined by the proviso, of the applicants' predecessors in interest.

Very respectfully,

S. V. Proudfit

Assistant Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 132.

"M" FTL 1 Inc.

JUN 23 1912

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

June 19, 1912.

RETURNS: Transmittal of Notices, Act June 6, 1912, amending Sections 2291 and 2297, R.S. (Public--No. 179).

Registers and Receivers,

United States Land Offices.

Sirs:

Referring to Circular No. 125, "Enactment of Three-Year Homestead Law," the Register, after appropriate notations on the "Serial Number register," will transmit notices of election to make proof under law under which entry was made, notices of the beginning of absence, and notices of termination of absence with his returns for the month during which filed, observing paragraph 64, Circular No. 105, May 4, 1912, revision of circular June 10, 1908.

The name of your office, serial number and old number, if any, involved must be noted in the upper right-hand corner of each notice. CLASSIFIED "Schedules of Serial Number," reporting such notices are not required.

341

If a notice should not give the correct date of the entry, serial number and description of the land involved, you will correct said paper and so inform the entryman. A copy of your letter to the entryman must be attached to the notice.

Please acknowledge receipt hereof on the inclosed postal card.

Very respectfully,

Fred Dennett

Commissioner.

BOARD OF LAW REVIEW.
By John P. McDowell.

6-19-12-ACY.

IN REPLY PLEASE REFER TO--Circular No. 133.

"M" ESE

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

June 19, 1918.

ACCOUNTS: Appropriation and freight charges to be noted on bill of lading and memorandum.

U. S. Surveyors General,
Registers and Receivers,
and Field Employees of the
General Land Office.

Sirs:

Hereafter every General Land Office employee who uses a Government bill of lading for a shipment of freight, or who forwards a bill of lading to a private dealer to be used by him for a shipment of government freight, must note on the reverse side thereof the correct title of the appropriation properly chargeable with the cost of transportation, and make the same notation on the face of the memorandum bill of lading.

The amount of the freight charges for the shipment must also be stated on the face of the memorandum bill of lading by the consignor, immediately following the appropriation. If in any case the actual cost of transportation can not be ascertained from the freight agent, an estimate of the approximate cost should be obtained from him, and that amount noted after the appropriation.

Where a bill of lading is forwarded to a private dealer to be used by him for a shipment of government freight, such dealer should, at the same time, be requested to state the cost of the transportation on the memorandum bill of lading, immediately following the appropriation, before mailing it to the Commissioner of the General Land Office.

Very repectfully,

Fred Dennett

Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 133.

"Z" DEX

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

June 19, 1913.

ACCOUNTS: Appropriation and freight charges to be noted on bill of lading and memorandum.

U. S. Surveyors General,
Registers and Receivers,
and Field Employes of the
General Land Office.

Sirs:

Hereafter every General Land Office employee who uses a Government bill of lading for a shipment of freight, or who forwards a bill of lading to a private dealer to be used by him for a shipment of Government freight, must note on the reverse side thereof the correct title of the appropriation properly chargeable with the cost of transportation, and make the same notation on the face of the memorandum bill of lading.

The amount of the freight charges for the shipment must also be stated on the face of the memorandum bill of lading by the shipper, immediately following the appropriation. If in any case the actual cost of transportation can not be ascertained from the freight agent, an estimate of the approximate cost should be obtained from him, and that amount noted after the appropriation.

Where a bill of lading is forwarded to a private dealer to be used by him for a shipment of Government freight, such dealer should, at the same time, be requested to state the cost of the transportation on the memorandum bill of lading, immediately following the appropriation, before mailing it to the Commissioner of the General Land Office.

Very respectfully,

Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 135.

"F"

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

June 19, 1912.

: Power-site withdrawals
: and restorations.

Registers and Receivers,
United States Land Offices.

Gentlemen:

From letters received by this office it would appear that some of the local officers are under the impression that withdrawals under the act of June 25, 1910 (36 Stat., 847), and restorations of lands so withdrawn, affect all the land described in the order, irrespective of the fact that title to some of the tracts mentioned has passed out of the Government by patent or otherwise. Such, however, is not the fact. Where title has passed from the United States the land is entirely beyond the control and jurisdiction of the Government, and can not in any manner be affected by any order issued by it, as long as the land remains in private ownership.

The orders are issued in the manner they are because, in some cases, it is inconvenient or impractical to segregate the patented tracts in a given area. However, under departmental instructions of June 10, 1912, relative to Power site No. 266, Seattle, Washington, land district, it is not necessary to note the order against the patented tracts.

In giving out information to the public relative to these orders, you are specially cautioned to state, specifically, that any land in private ownership is not affected thereby.

Very respectfully,

Fred Dennett

Commissioner.

Board of Law Review,
By W. B. PUGH.

Circular No. 138.

Filing of Election Under Act of June 6, 1912 (Public, No. 179).

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

JUL 5 1912

June 29, 1912.

Registers and Receivers,

United States Land Offices.

Sirs:

The last proviso to Sec. 2291, R. S., as amended by the act of June 6, 1912 (Public, No. 179), provides that "Any such entryman may, by giving notice within 120 days after the passage of this act, by registered letter to the register and receiver of the local land office, elect to make proof upon his entry under the law under which the same was made without regard to the provisions of this act."

It appears from reports received that a number of entrymen have presented such elections personally at local offices, and that others have been received by ordinary mail.

While the act directs that elections be forwarded by registered letter, the fact that they reach you in other ways will not defeat the right of entrymen to have the benefits thereof. Accordingly, in whatever way received, you will, if the election is in proper form, note the filing thereof on the Serial Number Register, and forward the same to this office as directed by Circular No. 132, dated June 19, 1912.

Very respectfully,

Fred Dennett

Commissioner.

Approved:

Samuel Adams

Acting Secretary.

IN REPLY PLEASE REFER TO--Circular No. 139.

JUL 3 1912

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

July 1, 1912.

: Authorizing Registra-
: tion and Drayage.

Registers and Receivers,

United States Land Offices.

Sirs:

You are hereby authorized to expend the amount for stamps for registration of official letters during the fiscal year ending June 30, 1913, advanced you from time to time for that purpose, but money advanced for other purposes must not be used for registration without first securing authority from this office to do so in each instance, which authority can be obtained by telegraph if necessary.

You are also authorized to expend not to exceed five dollars for drayage during the fiscal year ending June 30, 1913. Three dollars will be advanced for use in each office, and if that amount is exhausted you will request a further allowance, using the telegraph if necessary.

Very respectfully,

Fred Dennett

Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 139.

DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
WASHINGTON

July 1, 1913.

(Authorizing Registra-
(tion and Irvings.

Registers and Receivers,

United States Land Offices.

Sirs:

You are hereby authorized to expend the amount for stamps for registration of official letters during the fiscal year ending June 30, 1913, advanced you from time to time for that purpose, but money advanced for other purposes must not be used for registration without first securing authority from this office to do so in each instance, which authority can be obtained by telegraph if necessary.

You are also authorized to expend not to exceed five dollars for drayage during the fiscal year ending June 30, 1913. Three dollars will be advanced for use in each office, and if that amount is exhausted you will request a further allowance, using the telegraph if necessary.

Very respectfully,

Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 140a.

242456 "N" WJH

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

July 12, 1912.

: Instructions relative amend-
: ment of two forms of notice
: in paragraph 19, coal-land
: regulations.

Registers and Receivers,
U. S. Land Offices.

Sirs:

Paragraph 18 of the coal-land regulations, approved April 12, 1907 (35 L. D., 665), as amended November 30, 1907 (36 L. D., 192), provides that, within thirty days succeeding the period of publication and posting of notice of applications to enter coal lands, as required by the preceding paragraph, the claimant shall make proof thereof in the manner prescribed and tender the purchase price of the land, and concludes as follows:

> The claimant will be required within thirty days after the expiration of the period of newspaper publication to furnish the proofs specified in said paragraph and tender the purchase price of the land. Should the specified proofs and purchase price be not furnished and tendered within this time, the local land officers will thereupon reject the application, subject to appeal. Furthermore, in the exercise of a preference right to purchase, no part of the thirty-day period specified herein may extend beyond the year fixed by the statute.

The form of notice prescribed by the regulations is substantially as follows:

Land Office at.....
.....19....

Notice is hereby given that.....
of....., County of....., State of
....., has this day filed in this office Application to Purchase, under the provisions of section 2347, U. S. Revised Statutes, the.....of Section....., Township....., Range.....

Any and all persons claiming adversely the lands described, or desiring to object for any reason to the sale thereof to applicant, should file their affidavits of protest in this office on or before the.....day of....., 19....., otherwise the application may be allowed.

In a letter, dated June 13, 1912, the First Assistant Secretary informed this office that it had come to the knowledge of the Department that it has been the practice of the registers of certain land districts, in issuing such notices, to name therein an arbitrary date on or before which protests should be filed in their offices, which date, in most cases, does not coincide with the date upon which the thirty-day period of publication expires, and to advise applicants that they would be allowed thirty days from and after the date so named in the notice within which to make proof and payment; and that this has resulted, in many instances, in claimants failing to make proof and payment until more than thirty days after the expiration of the thirty-day period of publication but within the time so allowed by the local officers.

It was further set forth in said letter, that the register at one of the local offices complained that, owing to the uncertainty as to the date upon which publication would be commenced, it had been impossible for him to set a date prior to which protests should be filed that would correspond with the last day of the period of publication, and, and for that reason, it had been his practice to name in the notice a date sufficiently in advance of the date of the issuance of the notice to enable publication to be completed prior to the date fixed.

However, with reference thereto, the Department stated, that there appeared to be no necessity for inserting in the notice any such date as that contemplated by paragraph 19, of the regulations, and said, that on the other hand, it would seem that the situation complained of could be relieved of all complications by omitting that date from the notice, and requiring the interested parties themselves to take cogizance of and be governed by the first date of publication, and to file objection or make the necessary proof and payment, respectively, within the period specified by paragraphs 17 and 18 of the regulations.

To that end, therefore, that portion setting forth the forms for the notice of said paragraph 19 was, on the 9th day of July, 1912, amended by the Department to read as follows:

Notice for Publication.
Coal Entry.
(Section 2347, R. S.)

.....Land Office.
....., 19.....

Notice is hereby given that.....,
of....., County of....., State of.....,
has this day filed in this office his application to purchase,
under the provisions of section 2347, U. S. Revised Statutes,
the.....of section No....., township No....., range No.....

Circular No. 140a--3.

Any and all persons claiming adversely the lands described, or desiring to object for any reason to the entry thereof by the applicant, should file their affidavits of protest in this office during the thirty-day period of publication immediately following the first printed issue of this notice, otherwise the application may be allowed.

....., Register.

Notice for Publication
Coal Entry.
(Secs. 2348-52, R. S.)

.....Land Office.
....., 19....

Notice is hereby given that.....,
of....., County of....., State of.....
....., who, on the.....day of....., 19....., filed in this office his coal declaratory statement for the.....
of section No....., township No....., range No....., has this day filed in this office his application to purchase said land under the provisions of sections 2348 to 2352, U. S. Revised Statutes.

Any and all persons claiming adversely the lands described, or desiring to object for any reason to the entry thereof by the by the applicant, should file their affidavits of protest in this office during the thirty-day period of publication immediately following the first printed issue of this notice.

....., Register.

You will be governed accordingly.

There will be sent you at an early date, printed copies of this paragraph 19, as amended; issued as circular No. 140, also a supply of blank forms of publication notice containing said amendment.

Very respectfully,

Fred Dennett

6-24-12 akg

Commissioner.

Circular No. 1404--B.

Any and all persons claiming adversely the lands described, or desiring to object for any reason to the entry thereof by the applicant, should file their affidavits of protest in this office during the thirty-day period of publication immediately following the first printed issue of this notice, otherwise the application may be allowed.

_____, Register.

Notice for Publication
Coal Entry.
(Secs. 2348-52, R.S.)

_____land office.
_____, 19__.

Notice is hereby given that _____,
of _____, County of _____, State of _____,
_____, who, on the _____day of _____, 19___, filed in
this office his coal declaratory statement for the _____
of section No._____, township No._____, range No._____, has this
day filed in this office his application to purchase said land
under the provisions of sections 2348 to 2352, U. S. Revised
Statutes.

Any and all persons claiming adversely the lands described, or desiring to object for any reason to the entry thereof by the applicant, should file their affidavits of protest in this office during the thirty-day period of publication immediately following the first printed issue of this notice.

_____, Register.

You will be governed accordingly.

There will be sent you at an early date, printed copies of this paragraph 19, as amended, issued as Circular No. 1340, also a supply of blank forms of publication notice containing said amendment.

Very respectfully,

_____, Commissioner.

6-29-12 mhg

CIRCULAR NO. 140.

AMENDING PARAGRAPH 19 OF THE COAL-LAND REGULATIONS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, July 9, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices.

SIRS: That portion, setting forth the forms for the notice, of paragraph 19 of the coal-land regulations, approved April 12, 1907 (35 L. D., 665, 671, 672), is hereby amended to read as follows:

NOTICE FOR PUBLICATION.

COAL ENTRY.

(Sec. 2347, R. S.)

——— ——— LAND OFFICE,
——— ———, *19*——.

Notice is hereby given that ——— ———, of ———, county of ———, State of ———, has this day filed in this office his application to purchase, under the provisions of section 2347, United States Revised Statutes, the ——— of section No. ——, township No. ——, range No. ——.

Any and all persons claiming adversely the lands described, or desiring to object for any reason to the entry thereof by the applicant, should file their affidavits of protest in this office during the 30-day period of publication immediately following the first printed issue of this notice, otherwise the application may be allowed.

——— ———, *Register.*

NOTICE FOR PUBLICATION.

COAL ENTRY.

(Secs. 2348–2352, R. S.)

——— ——— LAND OFFICE,
——— ———, *19*——.

Notice is hereby given that ——— ———, of ———, county of ———, State of ———, who, on the —— day of ———, 19——, filed in this office his coal declaratory statement for the ——— of section No. ——, township No. ——, range No. ——, has this day filed in this office his application to purchase said land under the provisions of sections 2348 to 2352, United States Revised Statutes.

Any and all persons claiming adversely the lands described, or desiring to object for any reason to the entry thereof by the applicant, should file their affidavits of protest in this office during the 30-day period of publication immediately following the first printed issue of this notice.

——— ———, *Register.*

Very respectfully,

FRED DENNETT, *Commissioner.*

Approved: July 9, 1912.

SAMUEL ADAMS, *Acting Secretary.*

53646—12

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IN REPLY PLEASE REFER TO--Circular No. 141.

"G"

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

July 15, 1912.

: Instructions as to relin-
: quishments by Indians.

Registers and Receivers,

United States Land Offices.

Sirs:

The Commissioner of Indian Affairs in his letter of July 1, 1912, requests that the local officers be instructed to require Indians, in the execution of relinquishments, of allotment applications, or homestead entries under the act of July 4, 1884, to make a statement on the back of the relinquishments submitted of the reasons governing them in making such relinquishments.

The Commissioner of Indian Affairs states that this would, in many cases, eliminate the necessity of obtaining from the officials in the field a special report as to the propriety of accepting the relinquishment.

You will, therefore, in case of a relinquishment, filed by an Indian, of an allotment application, or of a homestead entry, under the act of July 4, 1884, require the party to write at the foot of the regular form provided for relinquishments, or upon the back thereof, a clear statement of his reasons for desiring to make such relinquishment.

Very respectfully,

S. V. Proudfit

Assistant Commissioner.

Board of Law Review,

By W. B. PUGH.

Superseded by Circ 208

CIRCULAR No. 142.

THE THREE-YEAR HOMESTEAD LAW.

DEPARTMENT OF THE INTERIOR,
Washington, July 15, 1912.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

SIR: Questions having arisen, through correspondence and otherwise, as to the construction to be given the several provisions of the new homestead law of June 6, 1912 (Public, No. 179), I have thought it advisable at this time to give the following general outline of my understanding of this act as affecting entries made prior to its passage, as well as those made thereafter; also to prescribe an order of procedure to be respected in matter of applications for reduction of the required area of cultivation and to promulgate a rule prescribing the amount of cultivation to be required respecting entries made prior to, but which are to be adjudicated under, the new law:

RESIDENCE.

(1) By the act of June 6, 1912 (Public, No. 179), the period of residence necessary to be shown in order to entitle a person to patent under the homestead laws is reduced from five to three years, and the period within which a homestead entry may be completed is reduced from seven to five years. The three-year period of residence, however, is fixed not from the date of the entry but "from the time of establishing actual permanent residence upon the land." It follows, as a consequence, that credit can not be given for constructive residence for the period that may elapse between the date of the entry and that of establishing actual permanent residence upon the land.

(2) Honorably discharged soldiers and sailors of the War of the Rebellion and also of the Spanish War and the suppression of the insurrection in the Philippines, entitled to claim credit under their homestead entries for the period of their military service, may do so after they have "resided upon, improved, *and cultivated* the land for *a period* of at least one year" after they shall have commenced their improvements. This is the requirement of section 2305 of the Revised Statutes, which is in nowise affected by the act of June 6, 1912. Respecting the cultivation to be required under said section it has been heretofore administered as requiring such showing as ordinarily applies in other cases preliminary to final proof, and as the new law exacts showing of cultivation of at least one-eighth of the area before final proof a showing should be exacted of a like amount for at least one year before final proof.

CULTIVATION.

(3) Prior to the passage of this act no specific amount of cultivation had been required respecting a homestead entry made under the general law; that is, an entry for 160 acres. With respect to every such entry section 2291 of the Revised Statutes had required proof of "cultivating *the same* for the term of *five years* immediately succeeding the time of filing affidavit." The words "the same" could refer only to the entry, and literally construed would require the cultivation of the entire tract entered for the term of five years. But a more liberal interpretation has properly obtained in the land department, and proof has been accepted upon a showing that the tract has been used in a husband-like manner, even though a smaller part of the entire entry had been actually cultivated than was in fact susceptible of cultivation. Furthermore, the long period of residence required (five years) has, in many instances, led to the acceptance of even a much smaller area of cultivation than husband-like methods and the character of the land would have reasonably justified. Under exceptional circumstances grazing land has been accepted as the equivalent of cultivation, where the lands were valuable only for grazing purposes. This can not be justified under any known definition of "cultivation," although some special legislation with reference to lands formerly within Indian reservations seems to require such a construction with respect to these particular lands. Under this special legislation lands formerly within certain Indian reservations have been first specifically classified as grazing lands, and then specifically opened to entry under the homestead law. It would be impossible to administer these special laws unless grazing is accepted as a compliance therewith, where it can be shown that the lands are in fact not capable of cultivation. The classification, however, was general, and where the general area was grazing in character it was so classified, even where it embraced local areas susceptible of cultivation. Where such lands are in fact physically and climatically susceptible of tillage, the cultivation provisions of the new homestead law must be applied. By that law it is required that the claimant "cultivate not less than one-sixteenth of the area of his entry, beginning with the second year of the entry, and not less than one-eighth beginning with the third year of the entry, and until final proof, except that in the case of entries under section 6 of the enlarged-homestead laws, double the area of cultivation herein provided shall be required, but the Secretary may, upon a satisfactory showing, under rules and regulations prescribed by him, reduce the required area of cultivation."

(4) The enlarged homestead acts here referred to (35 Stat., 639), (36 Stat., 531), authorize entries of 320 acres of lands designated for this purpose by the Secretary of the Interior, and requires proof "that at least one-eighth of the area embraced in the entry was continuously cultivated to agricultural crops, other than native grasses, beginning with the second year of the entry, and that at least one-fourth of the area embraced in the entry was so continuously cultivated beginning with the third year of the entry." The residence provisions of the homestead law (and now of the new act) were applicable to these entries, with an exception relating to certain lands in the States of Utah and Idaho, with respect to which the requirement of residence is omitted, and in lieu thereof the entryman is required to cultivate

twice the area required under the general provisions of the act. The enlarged homestead acts were intended to apply generally to lands suitable for cultivation only under dry-farming methods, and under these methods it is customary to summer fallow a portion of the land one year, planting it the following year. Under the new law such summer fallowing can not be accepted as the equivalent of cultivation, and this was equally true of the old laws, which required the land to be "cultivated to agricultural crops other than native grasses." The new law, however, does reduce the required area of cultivation to not less than one-sixteenth during the second year of the entry, and not less than one-eighth during the third year of the entry, and until final proof, except that in the case of entries under section 6 of the enlarged homestead laws, where residence is not required, one-eighth of the area of the entry must be cultivated during the second year, and one-quarter beginning with the third year of the entry, and until final proof. In other words, the effect of the new law, with respect to the enlarged homestead acts, except in instances where residence is not required, is generally to reduce by one-half the amount of cultivation to agricultural crops other than native grasses, which had previously been required.

CHARACTER OF CULTIVATION.

(5) In reducing the period of residence required in perfecting title to a tract of land entered under the homestead law from five to three years Congress has required that it be shown that an actual cultivation has been accomplished of at least certain specified portions of the land entered. This amount has been fixed at one-sixteenth, beginning with the second year of the entry, and one-eighth the following year, and until proof is offered. In view of the liberal reduction in the period of residence making it possible to secure title in three years, which would require a showing of but two years' cultivation of one-sixteenth of the area entered, and an additional one-sixteenth for but one year, a mere breaking of the soil will not meet the terms of the statute, but such breaking or stirring of the soil must also be accompanied by planting or the sowing of seed and tillage for a crop other than native grasses.

(6) It should be noted that under the new law the period within which the cultivation should be made is reckoned *from the date of the entry*.

REDUCTION OF CULTIVATION.

(7) The Secretary of the Interior is authorized, upon a satisfactory showing therefor, to reduce the required area of cultivation. In the administration of this provision it is not believed that the physical or financial disabilities or misfortunes of the entryman should be the grounds of reduction, but the sole question should be as to whether, under the peculiar conditions governing the tract entered, the exaction of cultivation of this particular tract by any entryman to the amount required is reasonable. The actual special physical and climatic conditions of the land entered in each case must therefore determine whether the required amount of cultivation should be reduced. It is desirable that the entryman should, wherever practicable, know in advance what, if any, reduction can properly be made; and therefore, as a general regulation governing applications

for reduction in area of cultivation, it is directed that all entrymen who desire a reduction shall file applications therefor during the first year of the entry and upon forms to be prepared and furnished by the Commissioner of the General Land Office and distributed through the land offices. Where a satisfactory showing is filed in support of an application for reduction, you will submit the same with your recommendation in the premises; otherwise the application will be by you rejected subject to the usual right of appeal. The final granting of any reduction in area of cultivation rests with the Secretary of the Interior, who may in appropriate cases defer action until final proof.

EXCEPTIONS.

(8) The requirements as to cultivation do not apply to entries made for lands within a reclamation project under the act of June 17, 1902 (32 Stat., 388), nor to entries made in State of Nebraska under the act of April 28, 1904 (33 Stat., 547), commonly known as the Kinkaid Act. In such instances the existing requirements as to cultivation made by the acts named continue in force.

ENTRIES NOT REQUIRING RESIDENCE.

(9) In all entries made under section 6 of the enlarged homestead acts (35 Stat., 639, and 36 Stat., 531), under which residence is not required, the entryman must cultivate at least one-eighth of the land in the second year after date of the entry and one-fourth of it during each year thereafter until he makes proof, and the *existing period* of cultivation required under said acts is not reduced by the act of June 6, 1912.

PERMISSIBLE ABSENCES FROM THE HOMESTEAD.

(10) The law clearly requires that the homestead entryman shall establish an actual residence upon the land entered within six months after the date of entry. Where, owing to climatic reasons, sickness, or other unavoidable cause, residence can not be commenced within this period, the Commissioner of the General Land Office may, within his discretion, allow the settler such additional period, not exceeding in the aggregate 12 months, within which to establish his residence. It is not meant thereby that because, for the reasons stated, residence may not be commenced within the six-months' period, that the settler is authorized to delay the commencement of residence beyond the required period and after the cause no longer exists. It is not thought necessary to require an application in advance in order to entitle the settler to this additional privilege, but the full circumstances will be open to investigation and consideration upon contest.

(11) After the establishment of residence the entryman is permitted to be absent from the land for one continuous period of not more than five months in each year following, provided that upon absenting himself for such period he has filed in the local land office notice of the beginning of such intended absence. He must also file notice with the local land office upon his return to the land following such period of absence.

(12) In according such extended periods of absence the Congress has dealt liberally with the homestead entryman, and bona fide

continuous residence during the remaining portions of the three-year period must be clearly shown.

(13) A second period of absence immediately following the first period, even though the two periods occur in different years, reckoned from the date of the establishment of actual residence, will not be recognized, as it was never contemplated that an absence was permissible in excess of six months in view of the specific provisions for contest provided for in section 2197 of the Revised Statutes. There should be at least some substantial period of actual continuous residence upon the land separating the periods of absence accorded under the statute. Only those protracted absences with respect to which notice has been given as required by the statute will be respected either in case of contest or on final proof. This law does not repeal or modify the acts of March 2, 1889 (25 Stat., 854), June 25, 1910 (36 Stat., 864), and April 30, 1912 (37 Stat., ——).

COMMUTATION.

(14) The privilege of commutation after 14 months' actual residence, as heretofore required by law, is unaffected by this legislation, excepting that the person commuting must be at the time a citizen of the United States. It has heretofore been the practice to permit the making of commutation proof upon a homestead entry by one who had merely declared his intention to become a citizen of the United States and prior to his actual naturalization. This practice, however, is abrogated, and in instances where commutation proof is made after the passage of this act it should be exacted and shown that the claimant, if foreign born, has become fully naturalized. Commutation proof can not, however, be made on entries under the enlarged homestead laws, the reclamation act, or on entries made under any other homestead law which prohibits commutation.

DEATH OF THE HOMESTEAD ENTRYMAN.

(15) Where the person making homestead entry dies before the offer of final proof, those succeeding to the entry in the order prescribed under the homestead law, in order to complete such entry must show that the entryman had complied with the law in all respects to the date of his death, and that they have since complied with the law in all respects as would have been required of the entryman had he lived, excepting that they are relieved from any requirement of residence upon the land. It follows, as a consequence, that where the entryman had not complied with the law in all respects prior to his death the entry will be forfeited, and upon proof thereof such entry will be canceled. This will apply to all entries made under the new law and those made prior to the passage of this act, where the entryman fails to elect to make proof under the law under which his entry was made.

ELECTION BY ENTRYMEN UNDER ENTRIES MADE PRIOR TO THIS ACT.

(16) The provisions of section 2291 of the Revised Statutes, as amended, in respect to the homestead period, are made applicable to all unperfected entries upon which residence is required, as well as

to those made after June 6, 1912, where the entryman fails to elect to make proof under the law under which his entry was made within the prescribed time. This obligates the previous entryman to compliance with the law of June 6, 1912, respecting all of its provisions, the performance of which is exacted during the homestead period. As a consequence, while residence is reduced from five to three years, specific cultivation is exacted beginning with the second year after entry. Final proof of full compliance must be made within five years from date of entry.

RULE PRESCRIBED RESPECTING CULTIVATION TO BE SHOWN ON ENTRIES MADE PRIOR TO, BUT ADJUDICATED UNDER, NEW LAW.

(17) It may be that such prior entryman can not show that he had cultivated one-sixteenth of the area embraced in his entry beginning with the second year of the entry and one-eighth beginning with the third year of the entry and until final proof, although he may have had during the year preceding his offer of proof one-eighth or more of the area embraced in his entry under actual cultivation, and may have cultivated one-sixteenth during the previous year, thus accomplishing the amount of cultivation required as a general rule under the new law, but not in the order and for the particular years required by that law.

(18) By the section I am authorized, under rules and regulations to be prescribed by me, to reduce the required area of cultivation. Acting thereunder, I have prescribed the following rule to govern action on proof where the homestead entry was made prior to June 6, 1912, but, through failure of election, must be adjudicated under the new law:

Respecting cultivation necessary to be shown upon such an entry, in all cases where, upon considering the whole record, the good faith of the entryman appears, the proof will be acceptable if it shows cultivation of at least one-sixteenth for one year and of at least one-eighth for the next year and each succeeding year until final proof, without regard to the particular year of the homestead period in which the cultivation of the one-sixteenth was performed.

TIME FOR PROOF ON ENTRIES MADE BEFORE BUT ADJUDICATED UNDER NEW LAW.

(19) The new law also requires that the proof shall be made within five years from date of entry and if the entry is to be administered under that law the department is not authorized to extend the period within which proof may be made, but when submitted after that time, in the absence of adverse claims, the entry may be submitted to the board of equitable adjudication for confirmation.

(20) Respecting entries heretofore or hereafter made requiring payment for the land entered in annual installments extending beyond the period of residence required under the new law, the homesteader may make his proof as in other cases, but final certificate will not be issued until the entire purchase price has been paid.

(21) It may not be to the advantage of all entrymen to have their entries adjudicated under the new law, and the matter should be

seriously considered before acting upon the election accorded previous entrymen under the statute.

(22) Unless they elect to make proof under the law under which their entries were made within the time accorded under the statute—i. e., on or before October 4, 1912—it will be incumbent upon the department to exact compliance with the new law, subject to the regulation herein above established.

The local officers will be furnished with copies hereof for their use when inquiries are made of them respecting the new law.

Very respectfully,

WALTER L. FISHER,
Secretary.

[Public—No. 179.]

AN ACT To amend section twenty-two hundred and ninety-one and section twenty-two hundred and ninety-seven of the Revised Statutes of the United States relating to homesteads.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twenty-two hundred and ninety-one and section twenty-two hundred and ninety-seven of the Revised Statutes of the United States be amended to read as follows:

"SEC. 2291. No certificate, however, shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if he be dead his widow, or in case of her death his heirs or devisee, or in case of a widow making such entry her heirs or devisee, in case of her death, proves by himself and by two credible witnesses that he, she, or they have a habitable house upon the land and have actually resided upon and cultivated the same for the term of three years succeeding the time of filing the affidavit, and makes affidavit that no part of such land has been alienated, except as provided in section twenty-two hundred and eighty-eight, and that he, she, or they will bear true allegiance to the Government of the United States, then in such case he, she, or they, if at that time citizens of the United States, shall be entitled to a patent, as in other cases provided by law: *Provided,* That upon filing in the local land office notice of the beginning of such absence, the entryman shall be entitled to a continuous leave of absence from the land for a period not exceeding five months in each year after establishing residence, and upon the termination of such absence the entryman shall file a notice of such termination in the local land office, but in case of commutation the fourteen months' actual residence as now required by law must be shown, and the person commuting must be at the time a citizen of the United States: *Provided,* That when the person making entry dies before the offer of final proof those succeeding to the entry must show that the entryman had complied with the law in all respects to the date of his death and that they have since complied with the law in all respects, as would have been required of the entryman had he lived, excepting that they are relieved from any requirement of residence upon the land: *Provided further,* That the entryman shall, in order to comply with the requirements of cultivation herein provided for, cultivate not less than one-sixteenth of the area of his entry, beginning with the second year of the entry, and not less than one-eighth, beginning with the third year of the entry, and until final proof, except that in the case of entries under section six of the enlarged-homestead law double the area of cultivation herein provided shall be required, but the Secretary of the Interior may, upon a satisfactory showing, under rules and regulations prescribed by him, reduce the required area of cultivation: *Provided,* That the above provision as to cultivation shall not apply to entries under the act of April twenty-eighth, nineteen hundred and four, commonly known as the Kinkaid Act, or entries under the act of June seventeenth, nineteen hundred and two, commonly known as the reclamation act, and that the provisions of this section relative to the homestead period shall apply to all unperfected entries as well as entries hereafter made upon which residence is required: *Provided,* That the Secretary of the Interior shall, within sixty days after the passage of this act, send a copy of the same to each homestead entryman of record who may be affected thereby, by ordinary mail to his last known address, and any such entryman may, by giving notice within one hundred and twenty days after the passage of this act, by registered letter to the register and receiver of the local land office, elect to make proof

upon his entry under the law under which the same was made without regard to the provisions of this act."

"SEC. 2297. If, at any time after the filing of the affidavit as required in section twenty-two hundred and ninety and before the expiration of the three years mentioned in section twenty-two hundred and ninety-one, it is proved, after due notice to the settler, to the satisfaction of the register of the land office that the person having filed such affidavit has failed to establish residence within six months after the date of entry, or abandoned the land for more than six months at any time, then and in that event the land so entered shall revert to the Government: *Provided*, That the three years' period of residence herein fixed shall date from the time of establishing actual permanent residence upon the land: *And provided further*, That where there may be climatic reasons, sickness, or other unavoidable cause, the Commissioner of the General Land Office may, in his discretion, allow the settler twelve months from the date of filing in which to commence his residence on said land under such rules and regulations as he may prescribe."

Approved, June 6, 1912.

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IN REPLY PLEASE REFER TO-Circular No. 143.

"A"

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

July 18, 1912.

: Directing that economy be
: practiced in use of supplies.

Registers and Receivers,
U. S. Land Offices.
U. S. Surveyors General.
Sirs:

It is observed from the requisitions submitted from time to time, and from the reports of inspectors who visit your offices, that there is an enormous waste in supplies; that many offices are over-stocked with blanks, blank books, stationery, drawing material and instruments. From the requisitions and reports it would appear that proper care is not exercised in preparing the requests. The quantity of each blank form, item of stationery, or drafting instruments, etc., called for, is, in many instances, many times in excess of the need of the office. Further, a proper inventory of each article requested is not always taken and reported in the requisition, as instructions require. This would show that the requisitions are prepared in a perfunctory manner and so signed. In reporting the quantity on hand you must state the amount or number in stock. Requisitions are being received in which the column for this purpose is filled with the word "none," "few," or a stated number, preceding each request, when in many cases this office holds an official receipt for a year's supply not ten days old. This is cited simply as evidence of the carlessness practiced in preparing requisitions.

The quantity of pencils, rubber erasers, typewriter paper, ink, paper weights, rulers, pens, paper fasteners, typewriter ribbons, and all other items, as well as blank forms, are called for by some offices in quantities sufficient to last for several years. This extravagance must cease, and you must in future exercise great care when making up the requisitions. While close scrutiny has been heretofore given to all requisitions, they will receive still closer scrutiny hereafter. Economy must be practiced and this office will see that this is done.

I, therefore, have to request that you do all in your power to assist me in complying with departmental instructions in practicing economy and avoid my having continually to call attention to these regulations.

Please acknowledge receipt hereof.

Very repectfully,

Fred Dennett

Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 144.

"M" F.T.L. 1 Inc.

DEPARTMENT OF THE INTERIOR

JUL 27 1912

GENERAL LAND OFFICE

WASHINGTON

July 18, 1912.

RETURNS: "Schedule of allowances," notations upon application and entry papers, etc.

Registers and Receivers,
United States Land Offices.

Sirs:

Questions having arisen by letter of July 12, 1912, from the Register at Lander, Wyoming, relative to the "Schedule of Allowances" (form 4-115d), required under paragraph 43, Circular No. 105, you are advised that said schedule must include, in numerical order, ALL original applications, entries, etc., allowed; ALL final proofs and sales upon which final certificates have issued during the month shown at the top of said schedule, without regard to when the money in connection therewith is earned.

The purpose of the schedule in question is to enable this office to determine, by classes, all applications, declarations, original entries, etc., allowed, and final proofs and public sales upon which final certificates have issued during the month. Therefore, when an application, etc., which has not been allowed, or final proof papers pertaining to a public sale, upon which final certificate has not issued, are transmitted, report thereof should not appear upon the schedule for the month transmitted, but the same should be reported on said schedule for the month during which allowed or final certificate issues.

In case of a final entry, report the final payment and receipt number or numbers in connection therewith, NOT the total of the original and final payments and the numbers of receipts issued in connection with the original payment. Do not include testimony fees in the amount column. Such column should, in each instance, show only the application fee, fee and commissions, purchase money, final commissions, etc., as the case may be.

In the "Summary," at the bottom of the schedule you must show total amount received during the month for reducing testimony to writing, examining and approving testimony, transcripts of records, plats, etc.; and, in a separate item, total "net balance" earned for reducing testimony to writing in contest cases. Designate said items as "Reducing testimony to writing, etc.," and "Reducing testimony to writing in contest cases," respectively. The total amount of payments on excess areas on homestead applications should also be shown in the "Summary" each month, designated as "Excess Payments."

The "Summary" should, of course, agree as to amounts involved with the items reported on the schedule and with the Receiver's records. The areas should agree with Register's

records, which areas, as instructed by paragraph 193, Circular No. 105, must be shown on the application and entry papers.

Letter of July 12, 1912, from the Receiver of Public Moneys at Lander, Wyoming, with reference to paragraph 195, Circular No. 105, contains the following inquiry:

> "In the case of a final certificate ordered on a desert-land entry in compliance with a Commissioner's letter, the papers having been transmitted and the money earned during a previous month, will the receiver be required to show on the final certificate issued at this time the amount of money earned, and if so will the amount be the total of the original and final payments?"

Each original application to enter, final proof and final certificate must show all money earned in connection therewith, beginning with the initial payment on the original application, without regard to when the money is earned. The payments must not be embraced in one item, but listed separately and properly designated. Such notations should appear in the upper left-hand corner of the papers. If numerous payments are involved, and there is not sufficient space upon the application or entry papers for notations thereof, a separate sheet should be attached to the top of the papers, showing the necessary information, together with the name of your office and Serial Number involved. Where the final proof papers accompany the final certificate, the notations should be made upon the final certificate only, or, as above instructed, on the separate report attached thereto.

Referring to paragraph 58, Circular No. 105, under the system of numbering in use prior to July 1, 1908, the Receiver's receipt usually bore the same number as the entry involved. Hereafter, when noting such old numbers upon final certificates and other entry papers, please distinguish the kind of entry, as, "HE 4688," "DLE 301," etc. See also paragraph 68, said circular.

Both officers will please acknowledge receipt hereof on the inclosed postal card.

Very respectfully,

Fred Dennett

Commissioner.

7-18 MB

CIRCULAR NO. 146.

CIRCULARS NOS. 95 AND 96 REVOKED.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., July 23, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices.

SIRS: Circulars Nos. 95 and 96, dated April 4, 1912, are hereby revoked.

Accordingly, the officers affected thereby will no longer be required to file the statement of fees charged (Form 4–141a). You will issue notice to all concerned.

Officers taking proofs, acknowledgments, etc., should be warned that this office will not tolerate any overcharging for services rendered, and that it will direct district officers to no longer set final proofs and contest hearings before any officer found, upon investigation, to have been guilty of any overcharge in relation to Land Office business, and will also call attention to the proper officers of the Department of Justice to any violations of section 2294, Revised Statutes, as amended by the act of March 4, 1904 (33 Stat., 59).

Very respectfully,

FRED DENNETT,
Commissioner.

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IN REPLY PLEASE REFER TO--Circular No. 148.

"A" McD AUG 12 '12

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

July 26, 1912.

: Withdrawals during
: pendency of contests.

Registers and Receivers,

United States Land Offices.

Gentlemen:

By order of the Department, immediately upon receipt of notice of an executive withdrawal that embraces lands included in contests, you are instructed to give all contestants notice of such withdrawal, in order that each contestant may determine whether it is to his advantage to further prosecute the contest.

Very respectfully,

Fred Dennett

Commissioner.

CIRCULAR No. 150.

AMENDMENTS OF THE RULES OF PRACTICE.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, July 31, 1912.

Registers and Receivers, United States Land Offices.

GENTLEMEN: Your attention is called to the fact that Rules of Practice 8, 10, 14, 82, and 83 have been amended since December 9, 1910.

Said rules, as amended, are as follows:

8. [Amended Mar. 11, 1912.] Unless notice of contest is personally served within 30 days after issuance of such notice and proof thereof made not later than 30 days after such service, or if service by publication is ordered, unless publication is commenced within 10 days after such order and proof of publication is made not later than 20 days after the fourth publication, as specified in rule 10, the contest shall abate: *Provided,* That if the defendant makes answer without questioning the service or the proof of service of said notice, the contest will proceed without further requirement in those particulars.

10. [Amended Mar. 7, 1911.] Service of notice by publication shall be made by publishing notice at least once a week for four successive weeks in some newspaper published in the county wherein the land in contest lies; and if no newspaper be printed in such county, then in a newspaper printed in the county nearest to such land.

Copy of the notice, as published, together with copy of the affidavit of contest, shall be sent by the contestant, within 10 days after the first publication of such notice, by registered mail, directed to the party for service upon whom such publication is being made, at the last address of such party as shown by the records of the land office, and also at the address named in the affidavit for publication, and also at the post office nearest the land.

Copy of the notice, as published, shall be posted in the office of the register, and also in a conspicuous place upon the land involved, such posting to be made within 10 days after the first publication of notice as hereinabove provided.

14. [Amended July 24, 1912.] Upon the failure to serve and file answer as provided by rule 13, the allegations of the contest affidavit will, on motion of contestant made within 20 days after the date the answer is required to be filed and before any answer is filed, be taken as confessed, or in case of failure of contestee to file answer and of contestant to file motion within the time prescribed, the allegation of the contest affidavit may be taken as confessed and judgment entered by the Commissioner of the General Land Office without the award of preference right to contestant. Due service of notice, either personally or by publication, as provided by rule 8, must appear in all such cases. At the

end of the period herein prescribed the register and receiver will forthwith forward the case with recommendation thereon to the General Land Office, and notify the parties by registered mail of the action taken.

82. [Amended Nov. 6, 1911.] Oral argument in any case pending before the Secretary of the Interior will be allowed, on motion, in the discretion of the Secretary, at a time to be fixed by him, after notice to the parties. The counsel for each party will be allowed only one-half an hour, unless an extension of time is ordered before the argument begins.

83. [Amended Nov. 16, 1911.] A motion for rehearing of a cause by the Secretary of the Interior, together with all papers used in connection therewith, must be in writing, and must, together with evidence of service thereof on the adverse party, be filed with the Secretary of the Interior within 30 days after service of notice of the decision in said cause.

Said motion must state concisely and specifically the grounds upon which such rehearing is asked, and may be accompanied by written argument in support thereof.

The adverse party will be allowed 15 days after the service of the motion upon him in which to serve and file with the Secretary of the Interior a reply to the motion.

In case no such motion be filed within the period above prescribed, the record will at once be transmitted to the Commissioner of the General Land Office for execution of the judgment of the Secretary. Like action will be taken immediately after the judgment of the Secretary on any motion for rehearing.

No oral argument will be allowed on any such motion, and this rule will be strictly adhered to. If the motion be granted, the Secretary will at once proceed to dispose of the case, or, in his discretion, if the motion, or the reply thereto, has been accompanied by a request for oral argument in the event of its being granted, will set the cause down for oral argument. In any case, however, if the motion be granted, the Secretary may set the cause down for oral argument.

Very respectfully,

FRED DENNETT,
Commissioner.

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IN REPLY PLEASE REFER TO--Circular No. 152.

AUG 12 1912

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

August 7, 1912.

ACCOUNTS: Schedule of Receipts abolished.

Receivers of Public Moneys,

United States Land Offices.

Sirs:

Beginning with the accounts for August, 1912, Receivers will discontinue preparing and transmitting "Schedule of Receipts Issued" (Form 4-115a), which will be no longer required. Paragraph 79, Circular 105, is, therefore, hereby revoked. Coal application fee, paragraph 122, applies only to Alaska.

Very respectfully,

Fred Dennett

Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 156.

"A" McD

AUG 17 1912

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

August 9, 1912.

: Applications for reduction
: of the required area of
: cultivation.

Registers and Receivers,

United States Land Offices.

Gentlemen:

The Department is sending to each district office a supply of Form 4-007a, "Application for reduction of the required area of cultivation." Any office not receiving any of the printed forms within ten days from the receipt hereof should advise this office by telegraph.

As stated on page 4 of the blank form, the applications may be executed before any officer having and using a seal.

The descriptions, numbers, dates, etc., in such applications as are filed should be compared with your records, and you will make appropriate recommendations, giving your reasons therefor, in the place provided on page 4 of the form.

Forward all applications on this form BY LETTER.

Very respectfully,

Fred Dennett

Commissioner.

227

CIRCULAR No. 157.

ADDITIONAL ENTRIES UNDER ENLARGED HOMESTEAD ACTS—INSTRUCTIONS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., August 14, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, and Wyoming.

GENTLEMEN: In a decision rendered June 11, 1912 (in the case of John Auld, Havre series 08277), the department held that where a person has an entry under the general homestead law more than seven years old, he is not entitled to make an additional entry under section 3 of the enlarged homestead act of February 19, 1909 (35 Stat., 639), or June 17, 1910 (36 Stat., 531), though proof has not been submitted on the original entry.

The department in said decision said:

"It will be observed that said section (3) makes no provision for allowance of an entry under said act as additional to a former entry upon which proof has been offered. It is not conceivable that a right to make such additional entry could be gained by deferring the making of final proof on an original entry beyond the fixed, legal statutory period. If proof be made upon the original entry, or if the statutory period within which such proof is required by law to be made expires prior to the making of additional entry, then the right granted by section 3 has lapsed and is of no avail. To hold otherwise would permit circumvention of the law and would grant a right clearly not intended in the act."

The department further says that while the board of equitable adjudication may, upon a proper showing, confirm the original entry, notwithstanding submission of the proof after expiration of the statutory period of seven years, the fact that an entryman may show himself entitled to equitable consideration by the board would not operate to confer upon him the right of additional entry.

You will govern yourselves by the principles above indicated, and reject all applications for additional entry filed under the conditions named in the decision. The same principles will apply where the expiration of the statutory life of an entry occurs under the provisions of the act of June 6, 1912 (Public, No. 179).

Very respectfully,

FRED DENNETT, *Commissioner.*

Approved:
SAMUEL ADAMS,
First Assistant Secretary.

57879°—12

IN REPLY PLEASE REFER TO--Circular No. 159.

"G" - KH

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

August 15, 1912.

: Revised form for annual
: proofs on desert-land
: entries.

Registers and Receivers,
United States Land Offices.

Sirs:

There have been transmitted to you, under separate cover, copies of the new form (4-074b), to be used by desert-land claimants in submitting their annual proofs.

It is expected that by closely following this form, that is, by requiring of claimants a specific enumeration of their improvements, the location thereof, the purpose for which constructed, etc., a statement will be secured which will be in accordance with the regulations, thereby obviating a large volume of correspondence. In a majority of cases, claimants have complied with the law, but in their meager statements, set forth in the old proofs, have failed to make satisfactory showing as to such compliance.

Your attention is called to the affidavit on the second page, to be taken in case the proof is executed outside the county in which the land is situated. The execution of this affidavit at one and the same time with the proof will greatly lessen the work incident to the correction of annual proofs.

You will distribute among the various proof-taking officers in your district a few of the copies sent you and earnestly request their cooperation in the matter of securing satisfactory statements. This will undoubtedly result in an economy of time and correspondence on the part of this office and of expenditure on the part of entrymen.

You are directed to destroy all the old annual proof forms in your possession, and to report that you have done so; also to report that you have notified the proof-taking officers in your district of these instructions.

Very respectfully,

S. V. Proudfit

Assistant Commissioner.

Board of Law Review,
By W. B. PUGH.

IN REPLY PLEASE REFER TO--Circular No. 160.
252972

"A" JWD

DEPARTMENT OF THE INTERIOR

SEP 3 1912

GENERAL LAND OFFICE

WASHINGTON

August 23, 1912.

: Calling for report as to con-
: dition of archives as directed by
: Executive order of July 19, 1912.

U. S. Surveyors General,
and Registers and Receivers.

Gentlemen:

Your attention is called to the following Executive order of July 19, 1912:

In order that information may be obtained concerning the extent, condition, accessibility and historical nature and value of the archives of the Government, the heads of Executive departments are instructed to obtain from each office under their jurisdiction, outside the City of Washington, information on the following points:

First. The earliest date of the archives, and the subjects to which they relate up to the year 1873.

Second. For what years, if any, the archives are missing.

Third. The condition of the archives, where they are kept, what care they receive, and, if they have been destroyed, the cause of such destruction.

Fourth. Whether they are accessible for administrative and historical purposes; and the extent to which they are used and can be used for such purposes.

All reports, as they are received by the heads of departments, are to be sent to the Librarian of Congress, to be edited. He is to furnish the heads of departments such details of instructions for the preparation of the reports as may be necessary to carry out the purpose of this order.

In pursuance of said Executive order, the Librarian of Congress has submitted to the Department a list of twenty-one questions, copy inclosed, to which you are instructed to prepare answers, in regard to the archives of your respective offices, quoting each question and following it with the answer, and forward them to this office without delay.

Very respectfully,

Fred Dennett

Commissioner.

8-23, HMQ

LIBRARY OF CONGRESS

F--B

Washington

August 13, 1912.

Office of the Librarian.

Sir:

I have the honor to refer to the President's Executive Order of July 19, 1912, on the subject of obtaining reports concerning archives of Federal offices outside of Washington; and, in accordance with the requirement of that order, that the Librarian of Congress shall furnish details of instructions for said reports, I inclose certain explanations of the order and twenty-one questions, by replying to which the requirements of the order will, it is thought, be satisfied, and which are submitted for the consideration of your department, and, if they are approved, for transmittal to the offices to which the order is applicable.

It is requested that this library be informed of the action taken in the premises by your department.

Very respectfully,

WM. W. BISHOP,

Acting Librarian of Congress.

(Inclosure.)

To the Honorable

The Secretary of Interior,

Washington D. C.

[Inclosure to accompany letter of August 13, 1912, from the Library of Congress, referring to Executive Order, No. 1567.]

The inquiry does not apply to an office whose archives do not go back of 1873.

By archives is meant the files, records, and written books and documents in your office. It is not meant to include printed books or documents.

Let your answers have numbers to correspond with the questions.

Answer fully, and give your opinions and views on the points submitted.

------:o:------

Ques 1. When was your office established?

Ques 2. From the date it was established up to 1873, what building or buildings has it occupied? Describe them. If it has moved, give the date or dates of such moving.

3. Has the building ever been burned? If so, when? State as fully as you can what archives, if any, were lost.

4. If the building is not fireproof, what special precautions are taken against fire?

5. In what part of the building are the archives up to 1873 kept, and how much space do they occupy? Are they shelved? If so, what are the shelves made of?

6. What are the conditions as to light (natural and artificial), ventilation, temperature, and moisture of the room or rooms which the archives occupy? Are there any people working in the same room or rooms?

7. Are the archives consulted in the room or rooms in which they are stored; or are they carried to another room when they are consulted; and, if so, how far away are they carried?

8. How often are the archives up to 1873 used? By whom? For what purpose?

9. Are they locked up? Who have access to them?

10. Who is in charge of them? What salary does he receive? How long has he been in charge of them? What other duties does he perform?

11. Are they arranged by any system or systems, by dates, alphabetically, by subjects or cases, for instance? If so, describe the system or systems fully.

12. Are they in packages, boxes, or other receptacles? Are they folded or flat?

13. If they have suffered damage, describe the nature of the damage; whether from breaking off, tearing off, being eaten by vermin, rotting, or other cause. State the reason for the damage; whether from too much moisture, too great heat, worms, beetles, rats or mice, or other cause.

14. At what date do the archives begin, and are they continuous from that date?

15. If they are not continuous, for what years or months, prior to 1873, are they missing?

16. If any have been lost or destroyed, state when and how they were lost or destroyed, if you can; if you can not, state why you can not.

17. To what subject or subjects do the earliest archives relate? Describe them in this relation fully, and give copies of several documents to serve as samples to the others.

18. After describing the subjects to which the earliest archives relate, state the subject or subjects to which the later archives relate up to 1873. Describe them in this relation fully, and give copies of several documents, to serve as samples of the others.

19. Is there any list, catalogue, or calendar of the archives? If so, send a copy of it, if you can.

20. Have you facilities to permit an historical investigator to use the archives? If so, would his presence in your office be acceptable, or would it be detrimental to the performance of the current duties of the office?

21. Is it your opinion that the archives are well cared for? If you think they are not, please state what should be done to insure adequate care for them.

IN REPLY PLEASE REFER TO--Circular No. 163.

"A" 263108

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

September 11, 1912.

: Promulgating circular of
: August 31, 1912. Removal
: of civil-service employees,
: etc.

Registers and Receivers,
U. S. Surveyors General,
Chiefs of Field Divisions,
and U. S. Surveyors.

Gentlemen:

Herewith I send you copies of circular dated August 31, 1912, relating to the removal of persons employed in the classified civil service, and also the right of such persons to petition Congress, or any Member thereof, as contained in the act making appropriation for the Post Office Department for the fiscal year ending June 30, 1913, approved August 24, 1912, and you will see that a copy of this circular is delivered to the civil service employees under you.

Very respectfully,

S. V. Proudfit

Acting Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 165.

F-FRD

SEP 20 1912

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

September 12, 1912.

Transmitting regulations relative to rights of way, approved August 24, 1912.

Registers and Receivers.

Sirs:

I am transmitting herewith, for your information and guidance, ten copies of the regulations concerning rights of way through the public lands and reservations of the United States (except national forests) and the Yosemite, Sequoia, and General Grant National Parks, California, for power purposes, under the act of February 15, 1901 (31 Stat., 790), approved by the Department August 24, 1912. By a careful perusal of these regulations, you will note a number of changes in the procedure as it affects your duties.

You should note particularly that these regulations pertain only to applications connected with power plants or for power purposes, and that as to applications under the act for purposes other than those connected with power, the old regulations of June 6, still obtain.

You will give these regulations as wide publicity (without expense to the Government) as possible.

Another supply of the regulations is in course of printing, and upon receipt you will be furnished with as many copies as you may require.

In case you may at any time be at a loss to determine whether an application comes properly within the scope of the regulations of August 24, 1912, or those of June 6, 1908, you will transmit the application to this office, stating your difficulty, without action.

Very respectfully,

S. V. Proudfit

Acting Commissioner.

9-12 FRL

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SEP 23 19

IN REPLY PLEASE REFER TO--Circular No. 166.

262864. "F" CTK

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

September 14, 1912.

Act March 15, 1910. : Advising of modification of regulations, approved April 25, 1910. Withdrawal under act March 15, 1910.

Registers and Receivers.

Sirs:

Departmental letter of September 7, 1912, modified Section 9 of the regulations issued under the act of March 15, 1910 (36 Stat., 237; 38 L. D., 580-582), as follows:

Upon departmental approval of an application for temporary withdrawal, the local office will be advised thereof by the General Land Office, and the register will make proper notations upon the records of his office. The one year mentioned in the act as the period of withdrawal will commence to run from the approval of the application by the Department. At the expiration of such year, the Commissioner will advise the local office thereof. Upon receipt by the local office of such advice immediate notation thereof will be made on the records, and the lands withdrawn will be thereby restored to entry as though such withdrawal had not been made.

Very respectfully,

S. V. Proudfit

Acting Commissioner.

Board of Law Review,
By W. B. Pugh.

9-12-MLA.

360

IN REPLY PLEASE REFER TO--Circular No. 170.

"A" 264827

OCT 7 1912

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

September 20, 1912.

Business cards of attorneys not to be placed in local offices.

Registers and Receivers,

U. S. Land Offices.

Gentlemen:

It has come to the knowledge of this office that attorneys are sending to some of the local land offices their business cards, with request that they be put in a place in their office where they will be accessible to any person desiring the services of an attorney in Washington and elsewhere. This letter is to inform you that when requests of this kind are received the attorney's card should be returned with a letter stating that you are prohibited from placing cards in your office for distribution.

Very respectfully,

Fred Dennett

Commissioner.

GCB

CIRCULAR No. 175.

RELATIVE TO CONTEST OF ENTRIES WITHIN RECLAMATION WITHDRAWALS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, September 30, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices.

SIRS: Under dates of August 24 and September 4, 1912, the First Assistant Secretary of the Interior revoked the regulations of January 19, 1909 (37 L. D., 365), and reaffirmed or restored, with modifications, paragraphs 6 and 7 of the circular of June 6, 1905 (33 L. D., 607), with respect to contests concerning lands withdrawn under the reclamation act of June 17, 1902 (32 Stat., 388). The regulations of January 19, 1909, as subsequently modified, are embodied in paragraphs 23 and 24 of circular No. 102, approved April 29, 1912. Such paragraphs are hereby revoked and in accordance with departmental instructions future action respecting contests will be governed by the following regulations:

An entry embracing lands included within a withdrawal, made under either of the forms mentioned, whether such entry was made before or after the date of such withdrawal, may be contested and canceled because of entryman's failure to comply with the law or for any other sufficient reason, and any contestant who secures the cancellation of such entry and pays the land office fees occasioned by his contest will be awarded a preferred right of making entry. Should the land embraced in the contested entry be within a first form withdrawal at time of successful termination of the contest the preferred right may prove futile for it can not be exercised as long as the land remains so withdrawn; should it be within a second form withdrawal, however, he (the contestant) may make entry under the terms of the reclamation act and should it, at that time, be excluded from all forms of withdrawal he may enter as in other cases made and provided. No contest can be allowed, however, against any qualified entryman who, prior to June 25, 1910, made bona fide entry upon lands proposed to be irrigated and who established residence in good faith upon the lands entered by him, for failure to maintain residence or to make improvements upon his land prior to the time when water is available for its irrigation. Successful contestants against entries in second form withdrawals, reclamation projects, can not be allowed to exercise preference right of entry prior to the time when the Secretary shall have established the unit of acreage, fixed the water charges, and the date when water can be applied and made public announcement of the same. It should be the duty, however, of such contestant to keep the local officers advised respecting his residence to which notice may be sent him of

his preference right of entry in event of successful contest, and a notice mailed to his address, shown by the records of the local land office at the time of the mailing of the notice of preference right, will be held to meet the requirements of the act of May 14, 1880 (21 Stat., 140).

When any entry for lands embraced within a withdrawal under the first form or under the second form, section 5 of the act of June 25, 1910 (36 Stat., 835), is canceled by reason of contest or for any other reason, such lands become subject immediately to such withdrawal and can not thereafter, so long as they remain so withdrawn, be entered or otherwise appropriated, either by successful contestant or any other person, but any contestant who gains a preferred right to enter any such lands may exercise that right at any time within 30 days from notice that the lands involved have been released from such withdrawal and made subject to entry.

Under these regulations you will allow the filing of contests against homestead entries made subject to the act of June 17, 1902 (32 Stat., 388), in the following cases:

(*a*) Where the entry was made on or after June 25, 1910.

(*b*) Where the entry was made prior to June 25, 1910, and it is alleged that the entryman failed to establish residence in good faith upon the lands entered by him.

(*c*) Where the entry was made before June 25, 1910, and a period of 90 days has elapsed since the issuance of public notice under section 4 of the reclamation act of June 17, 1902 (32 Stat., 388), fixing the date when water will be available for irrigation of the land.

(*d*) Where the entry was made prior to June 25, 1910, for any causes other than "failure to maintain residence or make improvements upon the land prior to the time when water is available."

Very respectfully,

S. V. Proudfit,
Assistant Commissioner.

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CIRCULAR No. 175.

RELATIVE TO CONTEST OF ENTRIES WITHIN RECLAMATION WITHDRAWALS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, September 30, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices.

SIRS: Under dates of August 24 and September 4, 1912, the First Assistant Secretary of the Interior revoked the regulations of January 19, 1909 (37 L. D., 365), and reaffirmed or restored, with modifications, paragraphs 6 and 7 of the circular of June 6, 1905 (33 L. D., 607), with respect to contests concerning lands withdrawn under the reclamation act of June 17, 1902 (32 Stat., 388). The regulations of January 19, 1909, as subsequently modified, are embodied in paragraphs 23 and 24 of circular No. 102, approved April 29, 1912. Such paragraphs are hereby revoked and in accordance with departmental instructions future action respecting contests will be governed by the following regulations:

An entry embracing lands included within a withdrawal, made under either of the forms mentioned, whether such entry was made before or after the date of such withdrawal, may be contested and canceled because of entryman's failure to comply with the law or for any other sufficient reason, and any contestant who secures the cancellation of such entry and pays the land office fees occasioned by his contest will be awarded a preferred right of making entry. Should the land embraced in the contested entry be within a first form withdrawal at time of successful termination of the contest the preferred right may prove futile for it can not be exercised as long as the land remains so withdrawn; should it be within a second form withdrawal, however, he (the contestant) may make entry under the terms of the reclamation act and should it, at that time, be excluded from all forms of withdrawal he may enter as in other cases made and provided. No contest can be allowed, however, against any qualified entryman who, prior to June 25, 1910, made bona fide entry upon lands proposed to be irrigated and who established residence in good faith upon the lands entered by him, for failure to maintain residence or to make improvements upon his land prior to the time when water is available for its irrigation. Successful contestants against entries in second form withdrawals, reclamation projects, can not be allowed to exercise preference right of entry prior to the time when the Secretary shall have established the unit of acreage, fixed the water charges, and the date when water can be applied and made public announcement of the same. It should be the duty, however, of such contestant to keep the local officers advised respecting his residence to which notice may be sent him of

his preference right of entry in event of successful contest, and a notice mailed to his address, shown by the records of the local land office at the time of the mailing of the notice of preference right, will be held to meet the requirements of the act of May 14, 1880 (21 Stat., 140).

When any entry for lands embraced within a withdrawal under the first form or under the second form, section 5 of the act of June 25, 1910 (36 Stat., 835), is canceled by reason of contest or for any other reason, such lands become subject immediately to such withdrawal and can not thereafter, so long as they remain so withdrawn, be entered or otherwise appropriated, either by successful contestant or any other person, but any contestant who gains a preferred right to enter any such lands may exercise that right at any time within 30 days from notice that the lands involved have been released from such withdrawal and made subject to entry.

Under these regulations you will allow the filing of contests against homestead entries made subject to the act of June 17, 1902 (32 Stat., 388), in the following cases:

(*a*) Where the entry was made on or after June 25, 1910.

(*b*) Where the entry was made prior to June 25, 1910, and it is alleged that the entryman failed to establish residence in good faith upon the lands entered by him.

(*c*) Where the entry was made before June 25, 1910, and a period of 90 days has elapsed since the issuance of public notice under section 4 of the reclamation act of June 17, 1902 (32 Stat., 388), fixing the date when water will be available for irrigation of the land.

(*d*) Where the entry was made prior to June 25, 1910, for any causes other than "failure to maintain residence or make improvements upon the land prior to the time when water is available."

Very respectfully,

S. V. Proudfit,
Assistant Commissioner.

CIRCULAR No. 176.

THREE-YEAR HOMESTEAD LAW—ELECTION.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, October 1, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices.

SIRS: Your attention is directed to the following provision in the act approved August 24, 1912 (Public, No. 302), making appropriation for sundry civil expenses of the Government for the fiscal year ending June 30, 1913:

That the failure of a homestead entryman to give notice of election of making his proof as required by the act of June sixth, nineteen hundred and twelve, being an act to amend sections twenty-two hundred and ninety-one (2291) and twenty-two hundred and ninety-seven (2297) of the Revised Statutes of the United States relating to homesteads, shall not in anywise prejudice his rights to proceed in accordance with the law under which such entry was made.

In view of the foregoing, paragraph 22, circular No. 142, of July 15, 1912, is no longer in force.

In this connection you will observe the following provision of paragraphs 18 and 19 of said circular:

By the section I am authorized, under rules and regulations to be prescribed by me, to reduce the required area of cultivation. Acting thereunder, I have prescribed the following rule to govern action on proof where the homestead entry was made prior to June 6, 1912, but through failure of election must be adjudicated under the new law.

Respecting cultivation necessary to be shown upon such an entry, in all cases where, upon considering the whole record, the good faith of the entryman appears, the proof will be acceptable if it shows cultivation of at least one-sixteenth for one year and of at last one-eighth for the next year and each succeeding year until final proof, without regard to the particular year of the homestead period in which the cultivation of the one-sixteenth was performed.

The new law also requires that the proof shall be made within five years from date of entry, and if the entry is to be administered under that law the department is not authorized to extend the period within which proof may be made, but when submitted after that time, in the absence of adverse claims, the entry may be submitted to the board of equitable adjudication for confirmation.

Very respectfully,

S. V. PROUDFIT,
Assistant Commissioner.

Approved:
SAMUEL ADAMS,
First Assistant Secretary.

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sions in said act expressed, and reserving a right of way thereon for ditches or canals constructed by authority of the United States.

S. V. PROUDFIT,
Acting Commissioner.

Approved:
SAMUEL ADAMS,
Acting Secretary.

ADDITIONAL HOMESTEAD ENTRIES—SECTION 2, ACT OF APRIL 28, 1904.

CIRCULAR.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., October 2, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices.

GENTLEMEN: Referring to circulars of May 20, 1904 (32 L. D., 639), July 27, 1907 (36 L. D., 46), and September 11, 1908 (37 L. D., 160), concerning additional entries under Sec. 2 of the act of April 28, 1904 (33 Stat., 527), the following additional rule is hereby announced:

An applicant to make entry under this section, in each case wherein final (not commutation) proof upon the original entry has theretofore been made, will not be required to make further proof of compliance with law as to residence and cultivation as to the additional entry, but the applicant will be required to begin, within twenty days from the filing of his application, publication of notice thereof, at his own expense, in a newspaper to be designated by the register as of general circulation in the vicinity of the land, and to be the nearest thereto. Such publication must cover a period of thirty days during which time similar notice of the application must be posted in the local land office. The notice must describe the land included in, and give the date of, the application, and state that the purpose thereof is to allow all persons claiming the land adversely, or desiring to show it to be mineral in character, an opportunity to file objection to the application with the local land officers for the land district in which the land is situate, and to establish their interest therein, or the mineral character thereof.

In cases where the additional entry is made prior to the publication of notice of intention to submit proof upon the original entry, and proof upon both entries is made at the same time, both the original and additional entries must be described in the published notice of intention to submit proof and in the notice posted in the local land office.

In cases where proof is submitted upon the original and additional entries separately, the published and posted notices usual in homestead cases will be required.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved:
SAMUEL ADAMS,
Acting Secretary.

#177
41 LD 292

CIRCULAR No. 180.

REGULATIONS GOVERNING PREPARATION AND DELIVERY OF CERTIFIED COPIES OF RECORDS AND PAPERS IN THE GENERAL LAND OFFICE, UNITED STATES DISTRICT LAND OFFICES, AND OFFICES OF UNITED STATES SURVEYORS GENERAL.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., October 17, 1912.

(1) By section 461, United States Revised Statutes, as amended and supplemented by the act of Congress approved August 24, 1912 (Public, No. 317), the Secretary of the Interior, the heads of the several bureaus, offices, and institutions, and other officers of the Interior Department are authorized to make and furnish to interested persons certified copies of any of the records in their said offices contained, said records not being confidential and privileged in character, upon payment of fees and charges specified by law.

(2) Certified copies of such records may be supplied to officers of the United States, requiring the same in their official capacities and for their official use, without the payment of any fee.

(3) The following schedule of fees is prescribed by law:

(*a*) For written copies, 15 cents for each 100 words.
(*b*) For photographic copies, 15 cents for each sheet.
(*c*) For photolithographic copies, 25 cents each.
(*d*) For tracings or blue prints, a sum equal to the cost of preparing the same.
(*e*) For certifying an authenticated copy and affixing thereto the seal of the officer certifying, 25 cents.
(*f*) For each certified copy of any printed order or regulation promulgated by the department or any of its bureaus or offices and intended for gratuitous distribution, 25 cents.

(4) The cost of a certified photographic copy of a patent will be ordinarily 40 cents. The cost of a typewritten copy will ordinarily be 85 cents. In any case where the amount remitted is not sufficient, the remitter will be promptly advised concerning the extent to which his remittance is deficient.

(5) A separate certificate and seal must be attached to each certified copy of a patent, as well as to each certified copy of any township plat: Provided, however, that where there have been two or more surveys of the same township, and a plat of each survey is desired, all of such related plats may be authenticated and certified by one certificate and one impression of the official seal.

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(6) All fees for certified copies must be prepaid, no authority to grant credit for the cost thereof being possessed by any officer authorized to make same.

(7) Remittances may be effected by means of New York exchange, certified check, cashier's check, or post-office money order.

(8) Section 4 of the act approved August 24, 1912, supra, requires all officers who supply authenticated copies of official records to attest their authentication by the use of an official seal. In any case where registers and receivers or surveyors general are not provided with such a seal they should immediately advise the Commissioner of the General Land Office of that fact, to the end that the necessary equipment may be secured and supplied to them. They should, at the same time, advise that official concerning the extent to which certified copies have been supplied by them to persons demanding the same during the three fiscal years next preceding, as nearly as the fact can be ascertained and stated.

(9) Inasmuch as the legislation referred to in the last preceding paragraph requires and directs that all moneys received for certified copies shall be deposited in the Treasury of the United States to the credit of the fund known as "Miscellaneous receipts," surveyors general will not be authorized, in the preparation of certified copies, to employ the services of an employee whose compensation is paid from the fund "Deposits by individuals for surveying public lands."

FRED DENNETT,
Commissioner.

Approved:
SAMUEL ADAMS,
First Assistant Secretary.

WASHINGTON : GOVERNMENT PRINTING OFFICE : 1912

[Reported, 41 L. D. 345]

CIRCULAR No. 182.

MODIFICATION OF OUTSTANDING ORDERS OF WITHDRAWAL.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, October 21, 1912.

Registers and Receivers, United States Land Offices.

SIRS: Your attention is called to the act of Congress approved August 24, 1912 (37 Stat. L. 497), amending section 2 of the act of Congress approved June 25, 1910 (36 Stat. 847).

You will note that the provision of the said act of June 25, 1910, that all lands withdrawn under the provisions of that act shall, at all times, be open to exploration, discovery, occupation, and purchase under the mining laws of the United States, "so far as the same apply to minerals other than coal, oil, gas, and phosphates," is changed by the amendment, so as to provide that such lands shall, at all times, be open to exploration, discovery, occupation, and purchase under the mining laws of the United States, "so far as the same apply to metalliferous minerals." By the approval, on August 24, 1912, of the said act, all outstanding orders of withdrawal under the act of June 25, 1910, were modified to conform to the act approved June 25, 1910, as amended by the act of August 24, 1912; and, upon the approval of said last-named act, the lands embraced in such orders of withdrawal ceased to be and are not open to exploration, discovery, occupation, or purchase under the mining laws of the United States, except for metalliferous minerals.

These instructions are in addition and supplementary to instructions of March 6, 1911 (39 L. D. 544).

You will exercise care in the enforcement of this important modification of the withdrawal orders.

Very respectfully,

FRED DENNETT, *Commissioner.*

Approved.

SAMUEL ADAMS,
First Assistant Secretary.

#183

41 LD 345

WITHDRAWN LANDS—MINERAL EXPLORATION—ACT OF AUGUST 24, 1912.

CIRCULAR.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, October 21, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices.

SIRS: Your attention is called to the act of Congress approved August 24, 1912 (Public, No. 316), amending section 2 of the act of Congress approved June 25, 1910 (36 Stat., 847), copy of which is herewith attached.

You will note that the provision of the said act of June 25, 1910, that all lands withdrawn under the provisions of that act shall, at all times, be open to exploration, discovery, occupation, and purchase under the mining laws of the United States, "so far as the same apply to minerals other than coal, oil, gas and phosphates," is changed by the amendment, so as to provide that such lands shall, at all times, be open to exploration, discovery, occupation and purchase under the mining laws of the United States, "so far as the same apply to metalliferous minerals." By the approval, on August 24, 1912, of the said act, all outstanding orders of withdrawal under the act of June 25, 1910, were modified to conform to the act approved June 25, 1910, as amended by the act of August 24, 1912; and, upon the approval of said last named act, the lands embraced in such orders of withdrawal ceased to be and are not open to exploration, discovery, occupation, or purchase under the mining laws of the United States, except for metalliferous minerals.

These instructions are in addition and supplementary to instructions of March 6, 1911 (39 L. D., 544).

You will exercise care in the enforcement of this important modification of the withdrawal orders.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved:
SAMUEL ADAMS,
First Assistant Secretary.

[PUBLIC—No. 316.]

AN ACT To amend section two of an Act to authorize the President of the United States to make withdrawals of public lands in certain cases, approved June twenty-fifth, nineteen hundred and ten.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section two of the Act of Congress

approved June twenty-fifth, nineteen hundred and ten (Thirty-sixth Statutes at Large, page eight hundred and forty-seven), be, and the same hereby is, amended to read as follows:

"SEC. 2. That all lands withdrawn under the provisions of this Act shall at all times be open to exploration, discovery, occupation, and purchase under the mining laws of the United States, so far as the same apply to metalliferous minerals: *Provided*, That the rights of any person who, at the date of any order of withdrawal heretofore or hereafter made, is a bona fide occupant or claimant of oil or gas bearing lands and who, at such date, is in the diligent prosecution of work leading to the discovery of oil or gas, shall not be affected or impaired by such order so long as such occupant or claimant shall continue in diligent prosecution of said work: *Provided further*, That this Act shall not be construed as a recognition, abridgment, or enlargement of any asserted rights or claims initiated upon any oil or gas bearing lands after any withdrawal of such lands made prior to June twenty-fifth, nineteen hundred and ten: *And provided further*, That there shall be excepted from the force and effect of any withdrawal made under the provisions of this Act all lands which are, on the date of such withdrawal, embraced in any lawful homestead or desert-land entry theretofore made, or upon which any valid settlement has been made and is at said date being maintained and perfected pursuant to law; but the terms of this proviso shall not continue to apply to any particular tract of land unless the entryman or settler shall continue to comply with the law under which the entry or settlement was made: *And provided further*, That hereafter no forest reserve shall be created, nor shall any additions be made to one heretofore created, within the limits of the States of California, Oregon, Washington, Idaho, Montana, Colorado, or Wyoming, except by Act of Congress."

Approved, August 24, 1912.

CREDIT FOR PRIOR PAYMENT UPON SECOND PROOF.

INSTRUCTIONS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, October 24, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices.

SIRS: The instructions under the act of March 26, 1908, contained in General Land Office circular dated July 23, 1910 (39 L. D., 146), under the heading "CREDIT FOR PRIOR PAYMENT IN SECOND APPLICATION TO COMMUTE," are hereby amended to read as follows:

CREDIT FOR PRIOR PAYMENT UPON SECOND PROOF.

In cases where the commutation homestead proof, final homestead proof, final desert-land proof, or other proof based upon an original entry, upon which you have issued certificate, has been rejected by this office, the certificate canceled, and the original entry allowed to stand subject to future compliance with the law, if second proof is

IN REPLY PLEASE REFER TO--Circular No. 184.
"M" ECV

NOV 7 1912

INSTRUCTIONS. CREDIT FOR PRIOR PAYMENT UPON SECOND PROOF.

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

October 24, 1912.

To Registers and Receivers
Of United States Land Offices.

Sirs:

The instructions under the act of March 26, 1908, contained in General Land Office circular dated July 23, 1910 (39 L. D., 146), under the heading "CREDIT FOR PRIOR PAYMENT IN SECOND APPLICATION TO COMMUTE," are hereby amended to read as follows:

CREDIT FOR PRIOR PAYMENT UPON SECOND PROOF.

In cases where the commutation homestead proof, final homestead proof, final desert-land proof, or other proof based upon an original entry, upon which you have issued certificate, has been rejected by this office, the certificate canceled, and the original entry allowed to stand subject to future compliance with the law, if second proof is accepted, credit may be allowed for the money paid on the first proof, and the register will issue his certificate, bearing proper number and date, making notation thereon in accordance with paragraph 195, Circular No. 105, dated May 4, 1912.

The entrymen is required to pay the testimony fees in connection with the second proof, irrespective of the fees paid with the first proof, which fees are to be accounted for in accordance with instructions contained in said Circular No. 105.

If the entire entry is canceled and the entryman is allowed to begin proceedings de novo, as for instance, in a mineral entry, the purchase money paid upon the first entry can not be applied in payment for a second entry. The only relief that may be afforded, if any, will be upon application for repayment.

Very respectfully,

Fred Dennett

Commissioner.

Approved October 24, 1912.

Samuel Adams

First Assistant Secretary.

10-16-JHB

IN REPLY PLEASE REFER TO--Circular No. 185.

NOV 26 1912

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

Important

October 28, 1912.

: Calling for reports as to
: increase in final proofs.

Registers and Receivers,

District Land Offices.

Gentlemen:

You are instructed to forward reports at such time as will permit of their being on file in this office not later than ~~January 10, 1913~~ December 15, 1912, as to the percentage of increase in applications to make final proof for the ~~six~~ five months ending ~~December 31,~~ November 30, 1912, over the same period of the preceding year, occasioned by the passage of the three year homestead act, and as to whether, in your opinion, the same increase will continue to June 30, 1913. Also give your opinion as to the number of homestead proofs that will be submitted next fiscal year.

It is presumed that the increased number of proofs offered this year will affect the number to be offered in the succeeding year.

These reports are desired for presentation to Committees of Congress.

Very respectfully,

Fred Dennett

Commissioner.

10-28 WSH.

Circular No. 194

(Addenda to Right-of-Way Regulations of June 6, 1908)

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON, D. C., *November 16, 1912.*

Registers and Receivers,

United States Land Offices.

SIRS:

Under date of July 10, 1912, the Department modified paragraphs *a* and *f* of section 8 of the regulations for rights of way over public lands and reservations (36 L. D., 567), to read as follows:

(*a*) A copy of its articles of incorporation duly certified to by the proper officers of the company under its corporate seal, or by the secretary of the State or Territory where organized; also an uncertified copy of the articles of incorporation.

(*f*) A true list, in duplicate, signed by the president, under the seal of the company, showing the names and designations of its officers at the date of the filing of the proofs.

On October 8, 1912, the Department added to said section 8 an additional paragraph (*l*), as follows:

(*l*) A separate statement, describing as near as may reasonably be done, by legal subdivisions, if practicable, the land to be irrigated by the proposed project; the approximate acreage and general condition and character of the lands; their ownership generally, and whether public or private; such negotiations or arrangements as have been had between the applicant and the owners or occupants of the lands.

Respectfully,

FRED DENNETT,
Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 195.

"A" DKP

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

NOV 26 1912

November 16, 1912.

: Action on applications
: for reduction of area.

Registers and Receivers,

United States Land Offices.

Gentlemen:

Hereafter you will promptly forward to the proper Chief of Field Division, making necessary notations on your records, all applications filed by homestead entrymen for a reduction of the area of cultivation required under Section 2291 Revised Statutes, as amended by the act of June 6, 1912 (37 Stat., 123). The Chief of Field Division will cause investigation to be made and report submitted direct to this office.

A form letter will shortly be sent you to be used in advising this office of the filing of such applications and their reference to the Chief of Field Division. In the meantime you will report by letter in each case, merely identifying the case by description, name of entryman, and serial number, and giving the dates of filing and reference.

Very respectfully,

Fred Dennett

Commissioner.

IN REPLY PLEASE REFER TO--Circular No. 196.

"A" McD

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

NOV 26 1912

November 19, 1912.

: Amendment of Rule
: Practice 8.

Registers and Receivers,

United States Land Office.

Gentlemen:

On November 15, 1912, the Secretary of the Interior issued an order amending Rule 8 of Practice so that the required period within which to commence publication, where service of notice of a contest is ordered by publication, is enlarged from 10 to 20 days.

564

Said Rule as amended is as follows:

Rule 8. Unless notice of contest is personally served within 30 days after issuance of such notice and proof thereof made not later than 30 days after such service, or if service by publication is ordered, unless publication is commenced within 20 days after such order and proof of publication is made not later than 20 days after the fourth publication, as specified in Rule 10, the contest shall abate: Provided, That if the defendant makes answer without questioning the service or the proof of service of said notice, the contest will proceed without further requirement in those particulars.

Very respectfully,

Fred Dennett

Commissioner.

field division, nor will any statement concerning the application be delivered to the applicant for presentation to a deputy surveyor.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved:
SAMUEL ADAMS,
First Assistant Secretary.

COAL LANDS—SURFACE PATENT—PROSPECTING.

INSTRUCTIONS.

DEPARTMENT OF THE INTERIOR,
Washington, November 21, 1912.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

SIR: Paragraph 7 of the circular of September 7, 1909 (38 L. D., 183, 185), pursuant to act of March 3, 1909 (35 Stat., 844), is hereby amended so as to read as follows:

7. Where election to accept patent with the prescribed reservation has been made by the nonmineral claimant, coal deposits in the land may be prospected for, mined, and removed under the existing coal-land laws, provided the person desiring so to do first procures the consent of the surface owner, or furnishes such security for payment of all damages to such owner caused thereby as may be determined by a court of competent jurisdiction. But no coal declaratory statement or application to purchase under sections 2347–2352 of the Revised Statutes, and the regulations of this office, will be received until the nonmineral claimant has elected to take a patent containing the prescribed reservation.

Appeals shall be allowed in all proceedings brought hereunder as in other cases.

Very respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

INSPECTION OF SERIAL NUMBER REGISTERS IN LOCAL OFFICES.

INSTRUCTIONS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, November 29, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices.

GENTLEMEN: In response to the many inquiries received by and referred to this office, relative to the conditions under which the Serial Number Register may be examined by the general public, and

the extent of such examination as may be permitted, you are advised that this book is a public record and may be reasonably inspected by any person provided such examination may be made without interfering with the orderly dispatch of public business. Should you ascertain that any person is obtaining information therefrom for improper purposes, you will deny such person further access to the register and promptly report your action to this office.

The circular of April 16, 1910 (38 L. D., 575), is hereby revoked.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved:
SAMUEL ADAMS,
First Assistant Secretary.

UNITED STATES EX REL. McKENZIE v. FISHER.[1]

In the Court of Appeals, District of Columbia.

MANDAMUS—SECRETARY OF THE INTERIOR—ENTRY OF LANDS.

The decision of the Secretary of the Interior, in the exercise of judgment and discretion, within the authority conferred by law, respecting the validity of an application to enter the public lands of the United States, will not be controlled by mandamus.

No. 2386. Submitted April 22, 1912. Decided May 6, 1912.

Hearing on an appeal by the relator from a judgment of the Supreme Court of the District of Columbia, discharging a rule to show cause why a writ of mandamus should not issue, and dismissing a petition therefor.

Affirmed.

The COURT in the opinion stated the facts as follows:

This was a petition to the Supreme Court of the District of Columbia for a writ of mandamus to compel the respondent, as Secretary of the Interior, to allow the application of petitioner to enter certain public lands of the United States, and in due course to issue a patent therefor. Respondent answered, to which answer petitioner demurred. The Court overruled the demurrer and entered a judgment for respondent, from which this appeal is prosecuted.

The facts briefly stated, are that in 1870 one Godsmark filed an application to enter 40 acres of land in the State of Michigan under the homestead laws of the United States. This entry was contested

[1] Reported in 39 App. D. C., 7, and printed with the permission and through the courtesy of Charles Cowles Tucker, Esquire, Reporter.

CIRCULAR NO. 199.

DAYS ON WHICH OFFICES CAN BE CLOSED.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., November 29, 1912.

United States Surveyors General, Registers and Receivers, and Chiefs of Field Divisions.

GENTLEMEN: It having come to the knowledge of this office that it is the practice of some subordinate officers of this bureau to suspend the public business and close their respective offices on days set apart as holidays by legislative or executive authority of the States in which the offices are located, your attention is called to circular of November 19, 1908, which directs the closing of all subordinate offices of this bureau on January 1, February 22, May 30, July 4, the first Monday in September, and December 25, which are declared public holidays by act of June 28, 1904 (28 Stats., 96). Also on such day as may be designated by proclamation of the President as "Thanksgiving Day." Your attention is also called to Executive order of May 22, 1909, on page 11 of circular of February 1, 1910, regulating leaves of absence, which directs that all offices of the Government, etc., shall, when January 1, February 22, May 30, July 4, and December 25 fall on Sunday, be closed to public business on the following Monday, excepting that when a State law fixes for a holiday another day than the Monday following such legal holiday, Government offices situated in such States shall be closed on the day which is in conformity to State law.

By letter of June 6, 1904, the Assistant Attorney General of the Department of the Interior advised the Secretary of the Interior as follows:

> I advise you that the law authorizes the closing of Federal offices located in the several States on all days declared holidays by the law of the State in which the office is located, and that employees in such offices should not be required to perform services on such days unless the state of the public business demands it.

While this opinion was approved by the Secretary, it was never promulgated as a regulation of the department. On the contrary, the Secretary, by letter of May 19, 1905, informed this office that the matter of closing the subordinate offices of the General Land Office

on such days as are set apart as holidays by legislative or executive authority of the State in which the offices are located is a matter for determination by the Commissioner of the General Land Office upon such report or information as may be furnished by the local officials.

You are therefore instructed to refrain hereafter from closing your offices on any days other than those specified in circular of November 19, 1908, unless otherwise directed.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved December 7, 1912.
LEWIS C. LAYLIN,
Assistant Secretary.

WASHINGTON : GOVERNMENT PRINTING OFFICE : 1912

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In reply please refer to Circular No. 200.

DEC 13 1912

"A" McD

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

December 3, 1912.

: Disposition of certain
: suspended final proofs.

Registers and Receivers,

United States Land Offices.

Gentlemen:

Until otherwise directed you will forward to this office with your current returns such final proofs as you may suspend for the reason that entryman has filed therewith an application for the reduction of the required area of cultivation.

In such cases you should note on the letter report provided for by Circular No. 195 the fact that proof has been submitted and suspended.

Very respectfully,

Fred Dennett

Commissioner.

838

CIRCULAR No. 202.

ISOLATED TRACTS—SECTION 2455, REVISED STATUTES, AS AMENDED BY ACT OF MARCH 28. 1912 (37 STAT., 77).

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., December 18, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices.

SIRS: The sale of isolated tracts of public lands outside of the area in the State of Nebraska described in the act of March 2, 1907 (34 Stat., 1224), is authorized by the provisions of the act of March 28, 1912 (37 Stat., 77), amending section 2455 of the Revised Statutes.

GENERAL REGULATIONS.

1. Applications to have isolated tracts ordered into market must be filed with the register and receiver of the local land office in the district wherein the lands are situated. The applicant must deposit with the receiver, in the form of cash or postal money order, an amount equal to the value of the land based upon the minimum price fixed for public lands, which will be ordinarily $1.25 per acre, or $2.50 per acre if within railroad limits, or such price as may be fixed by special statute governing the disposition of the land applied for. The receiver will issue receipt therefor and deposit the money to his credit as "unearned moneys." Should the applicant be the successful bidder at the sale, he will be given credit on the amount bid for the sum deposited with his application, and the receiver will apply the same as a part of the purchase money. If applicant is not the successful bidder, the receiver will return the sum deposited by his official check. Should the applicant withdraw his deposit, his action will be treated as a withdrawal of the application for sale and will be promptly so reported by the local officers. Money so deposited will not be returned by the receiver after receipt of the letter from this office ordering a tract into the market until the case is finally disposed of either by entry of the land, its sale to some one other than the applicant, or no sale.

2. Applicants must show by their affidavits, corroborated by at least two witnesses, that the land contains no salines, coal, or other minerals; the amount, kind, and value of timber or stone thereon, if any; whether the land is occupied, and, if so, the nature of the occupancy: for what purpose the land is chiefly valuable; why it is desired that same be sold; that applicant desires to purchase the land for his own individual use and actual occupation and not for speculative purposes, and that he has not heretofore purchased under section 2455, Revised Statutes. or the amendments thereto, isolated

tracts the area of which, when added to the area now applied for, will exceed approximately 160 acres; and that he is a citizen of the United States. If applicant has heretofore purchased lands under the provisions of the acts relating to isolated tracts, same must be described in the application by subdivision, section, township, and range.

3. The affidavits of applicants to have isolated tracts ordered into market, and of their corroborating witnesses, may be executed before any officer having a seal and authorized to administer oaths in the county or land district in which the tracts described in the applications are situated.

4. The officer before whom such affidavits are executed will cause each applicant and his witnesses to fully answer the questions contained upon the accompanying form and, after the answers to the questions therein contained have been reduced to writing, to sign and swear to same before him.

5. No sale will be authorized upon the application of a person who has purchased under section 2455, Revised Statutes, or the amendments thereto, any lands the area of which, when added to the area applied for, shall exceed approximately 160 acres.

6. Only one tract may be included in an application for sale, and no tract exceeding approximately 160 acres in area will be ordered into the market.

7. No tract of land will be deemed isolated and ordered into the market unless, at the time application is filed, the said tract has been subject to homestead entry for at least two years after the surrounding lands have been entered, filed upon, or sold by the Government, except in cases where some extraordinary reason is advanced sufficient, in the opinion of the Commissioner of the General Land Office to warrant waiving this restriction.

8. The local officers will on receipt of applications note same upon the tract books of their office, and if the applications are not properly executed, or not corroborated, they will reject the same subject to the right of appeal. Applications found to be properly executed and corroborated will be disposed of as follows: (*a*) If all, or any portion, of the land applied for is not subject to disposition under the provisions of paragraph 7, or by reason of some prior appropriation of the land, the application will be forwarded to the General Land Office with the monthly returns, accompanied by a report as to the status of the land applied for and the surrounding lands, and any other objection to the offering known to the local officers. Upon determining what portion, if any, of the lands applied for should be ordered into the market, the Commissioner of the General Land Office will call upon the local officers and the Chief of Field Division for the report, as next provided for, concerning the value of the land. (*b*) If all of the land applied for is vacant and not withdrawn or otherwise reserved from such disposition, and the status of the surrounding lands is such that a sale might properly be ordered under paragraph 7, the local officers, after noting the application on their records, will promptly forward the same to the Chief of Field Division for report as to the value of the land and any objection he may wish to interpose to the sale, and the register will make proper notations on his schedule of serial numbers in the event the application is not returned in time to be forwarded with the returns for the month in

which it is filed. Upon receipt of the application from the Chief of Field Division with his report thereon, the local officers will attach their report as to the status of the land and that surrounding, the value of the land applied for, if they have any knowledge concerning the same, and any objection to the sale known to them, and forward the papers to the General Land Office with the returns for the current month.

9. An application for sale under these instructions will not segregate the land from entry or other disposal, for such lands may be entered at any time prior to the day of sale. Should all of the land applied for be entered or filed upon while the application for sale is in the hands of the Chief of Field Division, the local officers will so advise him and request the return of the application for forwarding to the General Land Office. Likewise, should any or all of the land be entered or filed upon while the application for sale is pending before the General Land Office, the local officers will so report by special letter.

10. Upon receipt of letter authorizing the sale, the local officers will at once examine the records to see whether the tract, or any part thereof, has been entered. If the examination of the record shows that all of the tract has been entered or filed upon, the local officers will not promulgate the letter authorizing the sale, but will report the facts to the General Land Office, whereupon the letter authorizing the sale will be revoked. If a part of the land has been entered they will so report and proceed as provided below as to the remainder. If thereafter, and at any time prior to the date set for sale, a portion of the land applied for is entered or filed upon, that portion will be eliminated from the sale; and if all the land is entered or filed upon, no sale will be held. In either event the applicant should be promptly advised by ordinary mail and report made to this office on or after date of sale. In all cases where no sale is had the land will, in the absence of other objection, become subject to entry or filing at once, without action by this office.

The local officers will prepare a notice for publication on the form hereinafter given, describing the land found to be unentered, and fixing a date for the sale, which date must be far enough in advance to afford ample time for publication of the notice, and for the affidavit of the publisher to be filed in the local land office prior to the date of the sale. The register will also designate a newspaper as published nearest to the land described in the notice. The notice will be sent to the applicant with instructions that he must publish the same at his expense in the newspaper designated by the register. Payment for publication must be made by applicant directly to the publisher, and in case the money for publication is transmitted to the receiver, he must issue receipt therefor, and immediately return the money to the applicant by his official check, with instructions to arrange for the publication of the notice as hereinbefore provided.

If on the day set for the sale the affidavit of the publisher, showing proper publication, has not been filed in the local land office, the register and receiver will report that fact to this office, and will not proceed with the sale.

11. Notice must be published once a week for five consecutive weeks (or thirty consecutive days, if in a daily paper) immediately prior to the date of sale, but a sufficient time should elapse between the date

of last publication and date of sale to enable the affidavit of the publisher to be filed in the local land office. The notice must be published in the paper designated by the register as nearest the land described in the application. The register and receiver will cause a similar notice to be posted in the local land office, such notice to remain posted during the entire period of publication. The publisher of the newspaper must file in the local land office, prior to the date fixed for the sale, evidence that publication has been had for the required period, which evidence may consist of the affidavit of the publisher, accompanied by a copy of the notice published.

12. At the time and place fixed for the sale the register or receiver will read the notice of sale and allow all qualified persons an opportunity to bid. Bids may be made through an agent personally present at the sale, as well as by the bidder in person. The register or receiver conducting the sale will keep a record showing the names of the bidders and the amount bid by each. Such record will be transmitted to this office with the other papers in the case.

The sale will be kept open for one hour after the time mentioned in the published notice. At the expiration of the hour, and after all bids have been offered, the local officers will declare the sale closed, and announce the name of the highest bidder, who will be declared the purchaser, and he must immediately deposit the amount bid by him with the receiver (allowing credit for the original deposit, if applicant is the successful bidder), and within 10 days thereafter furnish evidence of citizenship, nonmineral and nonsaline affidavit, Form 4–062, or nonsaline affidavit, Form 4–062a, as the case may require. Upon receipt of the proof, and payment having been made for the lands, the local officers will issue the proper final papers.

13. No lands will be sold at less than the price fixed by law, nor at less than $1.25 per acre. Should any of the lands offered be not sold, the same will not be regarded as subject to private entry unless located in the State of Missouri (act of March 2, 1889, 25 Stats., 854), but may again be offered for sale in the manner herein provided.

14. After each offering where the lands offered are *not* sold, the local officers will report by letter to the General Land Office. No report by letter will be made when the offering results in a sale, but the local officers will issue cash papers as in ordinary cash entries, noting thereon the date of the letter authorizing the offering, and report the same in their current monthly returns. With the papers must also be forwarded the affidavit of publisher showing due publication, and the register's certificate of posting.

ACT OF MARCH 28, 1912.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twenty-four hundred and fifty-five of the Revised Statutes of the United States be amended to read as follows:

"SEC. 2455. It shall be lawful for the Commissioner of the General Land Office to order into market and sell at public auction, at the land office of the district in which the land is situated, for not less than one dollar and twenty-five cents an acre, any isolated or disconnected tract or parcel of the public domain not exceeding one-quarter section which, in his judgment, it would be proper to expose for sale after at least thirty days' notice by the land officers of the district in which such land may be situated: *Provided,* That any legal subdivisions of the public land, not exceeding one-quarter section, the greater part of which is mountainous or too rough for cultivation, may, in the discretion of said Commissioner, be ordered into the market and sold pursuant to this act upon the application of any person who owns lands or holds a valid entry of lands adjoining such tract, regardless of the fact that such tract may not be isolated or disconnected within the meaning of this act: *Provided further,* That this act shall not defeat any vested right which has already attached under any pending entry or location."

Approved, March 28, 1912.

REGULATIONS UNDER FIRST PROVISO TO ACT OF MARCH 28, 1912.

The first proviso to the act of March 28, 1912, authorizes the sale of legal subdivisions not exceeding one-quarter section, the greater part of which is mountainous and too rough for cultivation, upon the application of any person who owns or holds a valid entry of lands adjoining such tract and regardless of the fact that such tract may not be actually isolated by the entry or other disposition of surrounding lands. It is left entirely to the discretion of the Commissioner of the General Land Office to determine whether a tract shall be sold, and it will not be practicable to prescribe a set of rules governing the conditions which would render a tract susceptible to sale under the proviso. Applications will be disposed of by you in accordance with the "general regulations," except paragraph 7, which is not applicable. Applications may be made upon the form provided (4–008B) and printed herein, properly modified as necessitated by the terms of the proviso. In addition the applicant or applicants must furnish proof of his or their ownership of the whole title to adjoining land, or that he holds a valid entry embracing adjoining land, in connection with which entry he has fully met the requirements of law; also detailed evidence as to the character of the land applied for, the extent to which it is cultivable, and the conditions which render the greater portion unfit for cultivation; also a description of any and all lands theretofore applied for under the proviso or purchased under section 2455 or the amendments thereto. This evidence must consist of an affidavit by the claimant, corroborated by the affidavits of not less than two disinterested persons having actual knowledge of the facts.

No sale will be authorized under the proviso upon the application of a person who has procured one offering thereunder except upon a showing of strong necessity therefor owing to some peculiar condition which prevented original application for the full area allowed to be sold at one time, 160 acres. And in no event will an application be entertained where the applicant has purchased under section 2455, or the amendments thereto, an area which, when added to the area applied for, shall exceed approximately 160 acres.

In the notices for publication and posting, where sale is authorized under the proviso, you will add after the description of the land, "This tract is ordered into the market on a showing that the greater portion thereof is mountainous and too rough for cultivation."

ISOLATED TRACTS OF COAL LAND.

The act of Congress approved April 30, 1912 (37 Stat., 105), provides:

"That * * * unreserved public lands of the United States, exclusive of Alaska, which have been withdrawn or classified as coal lands, or are valuable for coal, shall * * * be subject * * * to disposition * * * under the laws providing for the sale of isolated or disconnected tracts of public lands, but there shall be a reservation to the United States of the coal in such lands so * * * sold, and of the right to prospect for, mine, and remove the same in accordance with the provisions of the

act of June twenty-s[illegible]hineteen hundred and ten, and such lands shall be subject to all the conditions and limitations of said act."

In administering this act the foregoing regulations should be followed, in so far as they are applicable, and these additional instructions are prescribed:

(1) An application to have coal land offered at public sale must bear on its face the notation provided by paragraph 7(a) of the circular of September 8, 1910, 39 L. D., 179; in the printed and posted notice of sale will appear the statement:

This land will be sold in accordance with, and subject to, the provisions and reservations of the act of June 22, 1910 (36 Stat., 583).

The purchaser's consent to the reservation of the coal in the land to the United States will not be required, but the cash certificate and patent will contain, respectively, the provisions specified in paragraph 7(b) of said circular of September 8, 1910.

(2) In cases where offerings have been had, and sales made, of lands coming within the purview of the act of April 30, 1912, the purchasers may furnish their consent to receive patents, containing the limitation provided by said paragraph 7(b), and, thereupon, the entries may be confirmed and patents, limited as indicated, may issue.

These regulations constitute a revision of Circular No. 71 of January 19, 1912, and its consolidation with Circulars No. 103, of April 30, 1912, and No. 117, of May 23, 1912, and supersede those circulars.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved:
SAMUEL ADAMS,
First Assistant Secretary.

[Form 4-008B.]

APPLICATION FOR SALE OF ISOLATED OR DISCONNECTED TRACTS.

DEPARTMENT OF THE INTERIOR,
UNITED STATES LAND OFFICE,
....., 19.....

To the Commissioner of the General Land Office:

....., whose post-office address is .....
respectfully requests that the ..... of Section ....., Township ....., Range ....., be ordered into market and sold under the act of March 28, 1912 (37 Stat., 77), at public auction, the same having been subject to homestead entry for at least two years after the surrounding lands were entered, filed upon, or sold by the Government.

Applicant states that he is a .....
(Insert statement that affiant is a native-born or naturalized citizen, as the case may be.)

citizen of the United States; that this land contains no salines, coal, or other minerals, and no stone except .....; that there is no timber thereon except ..... trees of the ..... species, ranging from ..... inches to ..... feet in diameter, and aggregating about ..... feet stumpage measure, of the estimated value of $.....; that the land is not occupied except by ..... of ..... post office, who occupies and uses it for the purpose of ....., but does not claim the right of occupancy under any of the public-land laws; that the land is chiefly valuable for ....., and that applicant desires to purchase same for his own individual use and actual occupation for the purpose of ....., and not for speculative purposes; that he has not heretofore purchased public lands sold as isolated tracts, the area of which when added to the area herein applied for will exceed approximately 160 acres. The lands heretofore purchased by him under said act are described as follows:

.....

If this request is granted applicant agrees to have notice published at his expense in the newspaper designated by the register.

(Applicant will answer fully the following questions:)

Question 1. Are you the owner of land adjoining the tract above described? If so, describe the land by section, township, and range.

Answer .....

Question 2. To what use do you intend to put the isolated tract above described should you purchase same?

Answer .....

Question 3. If you are not the owner of adjoining land, do you intend to reside upon or cultivate the isolated tract?

Answer .....

Question 4. Have you been requested by anyone to apply for the ordering of the tract into market? If so, by whom?

Answer .....

Question 5. Are you acting as agent for any person or persons or directly or indirectly for or in behalf of any person other than yourself in making said application?
Answer .....

Question 6. Do you intend to appear at the sale of said tract if ordered, and bid for same?
Answer .....

Question 7. Have you any agreement or understanding, expressed or implied, with any other person or persons that you are to bid upon or purchase the land for them or in their behalf, or have you agreed to absent yourself from the sale or refrain from bidding so that they may acquire title to the land?
Answer .....

.....
(Sign here with full Christian name.)

We are personally acquainted with the above-named applicant and the land described by him, and the statements hereinbefore made are true to the best of our knowledge and belief.

.....
(Sign here with full Christian name.)

.....
(Sign here with full Christian name.)

I certify that the foregoing application and corroborative statement were read to or by the above-named applicant and witnesses, in my presence, before affiants affixed their signatures thereto; that affiants are to me personally known (or have been satisfactorily identified before me by .....); that I verily believe affiants to be credible persons, and the identical persons hereinbefore described; that said affidavits were duly subscribed and sworn to before me, at my office, at ....., this ..... day of ....., 19...

.....

.....
(Official designation of officer.)

[Forms 4-348e and 4-348d.]

NOTICE FOR PUBLICATION—ISOLATED TRACT.

PUBLIC LAND SALE.

DEPARTMENT OF THE INTERIOR,
UNITED STATES LAND OFFICE,
....., ...
....., 19 .

Notice is hereby given that, as directed by the Commissioner of the General Land Office, under the provisions of the act of Congress approved March 28, 1912 (37 Stat., 77), pursuant to the application of.....
Serial No. ...., we will offer at public sale to the highest bidder, but at not less than $..... per acre, at .. o'clock .. m., on the ..... day of .....
next, at this office, the following tract of land: .....
.....
.....

Any persons claiming adversely the above-described land are advised to file their claims or objections on or before the time designated for sale.

....., *Register.*

....., *Receiver.*

O

In reply refer to--3[illegible]341 "C" McD

(Copy)

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

February 20, 1913.

Applications under the first proviso to Sec. 2455, R. S.

Register and Receiver,
Lander, Wyoming.

Sirs:

Reference is had to your letter of February 5, 1913, requesting additional instructions in connection with the regulations of December 18, 1912 (Circular No. 202), relative to public sales under the first proviso to Sec. 2455, R.S., as amended by the act of March 28, 1912 (37 Stat., 77).

Where an applicant for an offering under the first proviso bases his application upon the ownership of adjoining land, an affidavit by him, corroborated by the affidavits of not less than two disinterested persons having actual knowledge of the facts, will be considered by this office a sufficient showing as to ownership of the adjoining land. Should an applicant prefer, he can corroborate his affidavit by a certificate of the officer having custody of the county records. The mere answering of question one of form 4-008b will not be sufficient unless in detail as to the nature of the ownership (whether absolute or qualified), and in such case the corroboration must be made to relate also to that point specifically.

If applicant alleges that he has an entry for adjoining land, the fact that he has not submitted final proof on the entry will not defeat favorable consideration. There should be a showing that applicant has fully met the requirements of law in regard to the entry. The existence of a homestead entry for adjoining land will not warrant the ordering of a sale under the first proviso unless and until entryman has actually established residence on the land embraced in the entry.

Replying to your question numbered four, you are advised that it is held that Sec. 2455, R. S., warrants this office in fixing as a minimum any price which is not less than the minimum fixed by Congress.

As the Field Service is required to make a field examination of the land described in applications under the first proviso, you will carefully examine the affidavits filed and will reject, subject to the usual right of appeal, all such applications wherein the showing required (page 5 of Circular No. 202) is not made.

Very respectfully,

S. V. PROUDFIT,
Assistant Commissioner.

Board of Law Review,
By D. K. Parrott.

300

In reply please refer to 315563 - "A" McD.

(Copy.)

DEPARTMENT OF THE INTERIOR

General Land Office

Washington

March 27, 1913.

Isolated Tracts.

Register and Receiver,

Lemmon, South Dakota.

Gentlemen:

Referring to paragraph 7 of Circular No. 202, in considering applications under Section2455, Revised Statutes, you will not regard as an appropriation of the land the time during which the tract was segregated by a prior order for its sale.

Respectfully,

S. V. PROUDFIT,

Assistant Commissioner.

JAN 11 1913

In reply please refer to--Circular No. 204.

"FS" HLU

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

January 3, 1913.

Action relative applications to contest final entries.

Registers and Receivers,
United States Land Offices.

Gentlemen:

Under the circular of March 3, 1911, you are instructed to forward to the proper chief of field division for report all applications to contest or protests from persons not seeking to acquire a preference right or claiming an interest in the land.

In addition to this requirement, you are now instructed that you should forward to the proper chief of field division a copy of all the applications to contest or protests against FINAL ENTRIES, even though the contestant alleges an interest in the land or a desire to secure preference right.

The chief of field division will not make any report to you as to such contests or protests, and it will not be necessary for you to defer action upon the same.

Your attention is particularly called to the fact that these instructions apply only to contests against FINAL ENTRIES where there is an allegation of interest or a desire to acquire preference right. As to all other cases, you will be guided by the instructions contained in the circular of March 3, 1911.

Respectfully,

GH Fred Dennett

Commissioner.

1-2 ms

JAN 18 [illegible]

In reply please refer to Circular No. 205.

"N" WJH

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

January 10, 1913.

Amending paragraph 18 of the coal-land regulations.

Registers and Receivers,
United States Land Offices.

Sirs:

Paragraph 18 of the coal-land regulations, approved April 12, 1907 (35 L. D., 671), was, on December 30, 1912, amended by the Department to read as follows:

18. After the thirty days period of newspaper publication has expired, the claimant will furnish from the office of publication a sworn statement (including an attached copy of the published notice) that the notice was published for the required period, giving the first and last date of such publication, and his own affidavit, or that of some credible person having personal knowledge of the fact, showing that the notice aforesaid remained conspicuously posted upon the land sought to be patented during said thirty days' publication, giving the dates. The register shall certify to the fact that the notice was posted in his office for the full period of thirty days, the certificate to state distinctly when such posting was done and how long continued, giving the dates.

The claimant will be required within 30 days after the expiration of the period of newspaper publication to furnish the proofs specified in this parapraph, whereupon, and after receipt of report of chief of field division, as required in paragraphs five and six of circular approved April 24, 1907, the register and receiver will examine the proofs submitted, and if all be found regular and the application allowable, will, by registered mail or personal service, so notify the applicant in writing, requiring him, within FIFTEEN (15) days from receipt of notice of such allowance, to make payment of the purchase money unless it has theretofore been made. Should the specified proofs and purchase money be not furnished and tendered within the time prescribed, the local officers will reject the application subject to appeal. In the exercise of a preference right of purchase the publication and posting of notice should be completed and the proof thereof filed within the year fixed by the statute.

384

Applicants to purchase under section 2347 of the Revised Statutes may at their option pay for the land at the time of filing their applications to purchase, or at any time thereafter, up to fifteen days from and after receipt of notice from the register and receiver, as hereinbefore provided. The price to be paid will be that existent at date of actual payment of the purchase money by the applicants to the register and receiver, and a subsequent increase in the price will not affect their right to complete the applications, if proceedings be diligently prosecuted to final proof and entry. Where payments are not made at time of filing applications to purchase, but are deferred to a later date, and an increase in valuation has occurred subsequent to application to purchase but before the actual tender and payment of the purchase money, the applicants will in all such cases be required to pay the new or higher price.

The foregoing is not applicable to coal-land claimants who have initiated claims under section 2348 of the Revised Statutes, by the opening and improving of a mine of coal on public land, and who have diligently prosecuted their claims to completion, as required by the law and regulations. Such claimants will be required to pay the price fixed and existent at the time of the initiation of their claims.

December 30, 1912.

Approved:

(Signed) WALTER L. FISHER,

Secretary.

In this connection, receivers will observe the requirements of paragraph 81 of Circular No. 105, and deposit the money as soon as received to the credit of the Treasurer of the United States as "Sales of Public Lands."

You are advised, in accord with the letter dated December 30, 1912, of the First Assistant Secretary notifying this office of said amendment, that the requirements of amended paragraph 18 will be applicable to all applications to purchase offered or filed on or after February 1, 1913.

Very respectfully,

Fred Dennett

Commissioner.

Board of Law Review,
By W. B. PUGH.

1-9-13 McC

In reply please refer to Circular No. 206.

"A" McD

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

January 14, 1913.

Circular No. 71 superseded by Circular No. 202--Important changes.

Registers and Receivers,
United States Land Offices.

Sirs:

A supply of Circular No. 202 is being sent to each district office. Said circular constitutes a revision of the regulations in regard to the sale of isolated tracts, formerly set forth in Circular No. 71, and its consolidation with Circulars Nos. 103 and 117, and supersedes those circulars.

Particular attention is invited to paragraphs 1, 2, and 9.

Paragraph 1 requires the applicant to deposit an amount equal to the value of the land, based upon the minimum price fixed for public lands.

Paragraph 2 requires that the applicant show that he is a native-born or naturalized citizen of the United States.

Paragraph 9 allows the land applied for to be entered at any time prior to the day of sale.

Under the heading "Regulations Under First Proviso to Act of March 28, 1912," it is required that applications under that proviso must show that the land is rough AND mountainous, and that proof must be furnished that applicant is the owner of the whole title to adjoining land or that he holds a valid entry embracing adjoining land in connection with which entry he has fully met the requirements of law.

The requirement of paragraph 1 as to the deposit of the minimum price of the land will not be enforced as to applications filed prior to the receipt of this circular. On and after that date, you will reject all applications unless the same are accompanied by the necessary deposits.

Promptly acknowledge receipt hereof on the inclosed card.

Respectfully,

Fred Dennett

Commissioner.

Board of Law Review,
By D. K. PARROTT.

CIRCULAR No. 208.

THE THREE-YEAR HOMESTEAD LAW.

DEPARTMENT OF THE INTERIOR,
Washington, February 13, 1913.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

SIR: The following instructions under the "three-year homestead law" of June 6, 1912 (37 Stat., 123), will supersede those contained in Circular No. 142, dated July 15, 1912:

RESIDENCE.

(1) By the act of June 6, 1912 (37 Stat., 123), the period of residence necessary to be shown in order to entitle a person to patent under the homestead laws is reduced from five to three years, and the period within which a homestead entry may be completed is reduced from seven to five years. The three-year period of residence, however, is fixed not from the date of the entry but "from the time of establishing actual permanent residence upon the land." It follows as a consequence that credit can not be given for constructive residence for the period that may elapse between the date of the entry and that of establishing actual permanent residence upon the land.

(2) Honorably discharged soldiers and sailors of the War of the Rebellion and also of the Spanish War and the suppression of the insurrection in the Philippines, entitled to claim credit under their homestead entries for the period of their military service, may do so after they have "resided upon, improved, and cultivated the land for a period of at least one year" after they shall have commenced their improvements. This is the requirement of section 2305 of the Revised Statutes, which is in nowise affected by the act of June 6, 1912. Respecting the cultivation to be required under said section, it has been heretofore administered as requiring such showing as ordinarily applies in other cases preliminary to final proof, and, as the new law exacts showing of cultivation of at least one-eighth of the area before final proof, a showing should be exacted of a like amount for at least one year before final proof.

CULTIVATION.

(3) Prior to the passage of this act no specific amount of cultivation had been required respecting a homestead entry made under the general law; that is, an entry for 160 acres. With respect to every such entry section 2291 of the Revised Statutes had required proof of "cultivating the same for the term of five years immediately succeeding the time of filing affidavit." The words "the same" could refer only to the entry, and literally construed would require the cultivation of the entire tract entered for the term of five years. But a more liberal interpretation has properly obtained in the Land Department, and proof has been accepted upon a showing that the tract has been used in a husbandlike manner, even though a smaller

part of the entire entry has been actually cultivated than was in fact susceptible of cultivation. Furthermore, the long period of residence required (five years) has, in many instances, led to the acceptance of even a much smaller area of cultivation than husbandlike methods and the character of the land would have reasonably justified. Under exceptional circumstances grazing land has been accepted as the equivalent of cultivation, where the lands were valuable only for grazing purposes. This can not be justified under any known definition of "cultivation," although some special legislation with reference to lands formerly within Indian reservations seems to require such a construction with respect to these particular lands. Under this special legislation lands formerly within certain Indian reservations have been first specifically classified as grazing lands, and then specifically opened to entry under the homestead law. It would be impossible to administer these special laws unless grazing is accepted as a compliance therewith, where it can be shown that the lands are in fact not capable of cultivation. The classification, however, was general, and where the general area was grazing in character it was so classified, even where it embraced local areas susceptible of cultivation. Where such lands are in fact physically and climatically susceptible of tillage, the cultivation provisions of the new homestead law must be applied. By that law it is required that the claimant "cultivate not less than one-sixteenth of the area of his entry, beginning with the second year of the entry, and not less than one-eighth beginning with the third year of the entry, and until final proof, except that in the case of entries under section 6 of the enlarged-homestead laws, double the area of cultivation herein provided shall be required, but the Secretary may, upon a satisfactory showing, under rules and regulations prescribed by him, reduce the required area of cultivation."

(4) The enlarged homestead acts here referred to (35 Stat., 639; 36 Stat., 531) authorize entries of 320 acres of lands designated for this purpose by the Secretary of the Interior, and requires proof "that at least one-eighth of the area embraced in the entry was continuously cultivated to agricultural crops, other than native grasses, beginning with the second year of the entry, and that at least one-fourth of the area embraced in the entry was so continuously cultivated beginning with the third year of the entry." The residence provisions of the homestead law (and now of the new act) were applicable to these entries, with an exception relating to certain lands in the States of Utah and Idaho, with respect to which the requirement of residence is omitted, and in lieu thereof the entryman is required to cultivate twice the area required under the general provisions of the act. The enlarged homestead acts were intended to apply generally to lands suitable for cultivation only under dry-farming methods, and under these methods it is customary to summer fallow a portion of the land one year, planting it the following year. Under the new law such summer fallowing can not be accepted as the equivalent of cultivation, and this was equally true of the old laws, which required the land to be "cultivated to agricultural crops other than native grasses." The new law, however, does reduce the required area of cultivation to not less than one-sixteenth during the second year of the entry, and not less than one-eighth during the third year of the entry, and until final proof, except

that in the case of entries under section 6 of the enlarged homestead laws, where residence is not required, one-eighth of the area of the entry must be cultivated during the second year, and one-quarter beginning with the third year of the entry, and until final proof. In other words, the effect of the new law, with respect to the enlarged homestead acts, except in instances where residence is not required, is generally to reduce by one-half the amount of cultivation to agricultural crops other than native grasses, which had previously been required.

CHARACTER OF CULTIVATION.

(5) In reducing the period of residence required in perfecting title to a tract of land entered under the homestead law from five to three years, Congress has required that it be shown that an actual cultivation has been accomplished of at least certain specified portions of the land entered. This amount has been fixed at one-sixteenth, beginning with the second year of the entry, and one-eighth the following year and until proof is offered. In view of the liberal reduction in the period of residence, making it possible to secure title in three years, which would require a showing of but two years' cultivation of one-sixteenth of the area entered and an additional one-sixteenth for but one year, a mere breaking of the soil will not meet the terms of the statute, but such breaking or stirring of the soil must also be accompanied by planting or the sowing of seed and tillage for a crop other than native grasses.

(6) It should be noted that under the new law the period within which the cultivation should be made is reckoned from the date of the entry.

REDUCTION OF CULTIVATION.

(7) The Secretary of the Interior is authorized, upon a satisfactory showing therefor, to reduce the required area of cultivation. In the administration of this provision it is not believed that the physical or financial disabilities or misfortunes of the entryman should be the grounds of reduction, but the sole question should be as to whether, under the peculiar conditions governing the tract entered, the exaction of cultivation of this particular tract by any entryman to the amount required is reasonable. The actual special physical and climatic conditions of the land entered in each case must therefore determine whether the required amount of cultivation should be reduced. It is desirable that the entryman should, wherever practicable, know in advance what, if any, reduction can properly be made, and, therefore, as a general regulation governing applications for reduction in area of cultivation, it is directed that all entrymen who desire a reduction shall file applications therefor during the first year of the entry and upon forms to be prepared and furnished by the Commissioner of the General Land Office and distributed through the land offices. Where a satisfactory showing is filed in support of an application for reduction, you will submit the same with your recommendation in the premises, otherwise the application will be by you rejected, subject to the usual right of appeal. The final granting of any reduction in area of cultivation rests with the Secretary of the Interior, who may, in appropriate cases, defer action until final proof.

EXCEPTIONS.

(8) The requirements as to cultivation do not apply to entries made for lands within a reclamation project, under the act of June 17, 1902 (32 Stat., 388), nor to entries made in the State of Nebraska under the act of April 28, 1904 (33 Stat., 547), commonly known as the Kinkaid Act. In such instances the existing requirements as to cultivation made by the acts named continue in force.

ENTRIES NOT REQUIRING RESIDENCE.

(9) In all entries made under section 6 of the enlarged homestead acts (35 Stat., 639, and 36 Stat., 531), under which residence is not required, the entryman must cultivate at least one-eighth of the land in the second year after date of the entry and one-fourth of it during each year thereafter until he makes proof, and the existing period of cultivation required under said acts is not reduced by the act of June 6, 1912.

PERMISSIBLE ABSENCE FROM THE HOMESTEAD.

(10) The law clearly requires that the homestead entryman shall establish an actual residence upon the land entered within six months after the date of entry. Where, owing to climatic reasons, sickness or other unavoidable cause, residence can not be commenced within this period, the Commissioner of the General Land Office may, within his discretion, allow the settler such additional period, not exceeding in the aggregate 12 months, within which to establish his residence. It is not meant thereby that because, for the reasons stated, residence may not be commenced within the six-month period, that the settler is authorized to delay the commencement of residence beyond the required period and after the cause no longer exists. It is not thought necessary to require an application in advance in order to entitle the settler to this additional privilege, but the full circumstances will be open to investigation and consideration upon contest.

(11) After the establishment of residence the entryman is permitted to be absent from the land for one continuous period of not more than five months in each year following, provided that upon absenting himself for such period he has filed in the local land office notice of the beginning of such intended absence. He must also file notice with the local land office upon his return to the land following such period of absence.

(12) In according such extended periods of absence the Congress has dealt liberally with the homestead entryman, and bona fide continuous residence during the remaining portions of the three-year period must be clearly shown.

(13) A second period of absence immediately following the first period, even though the two periods occur in different years, reckoned from the date of the establishment of actual residence, will not be recognized, as it was never contemplated that an absence was permissible in excess of six months, in view of the specific provisions for contest provided for in section 2297 of the Revised Statutes. There should be at least some substantial period of actual continuous residence upon the land separating the periods of absence accorded

under the statute. Only those protracted absences with or therefor which notice has been given as required by the statute will be expected either in case of contest or on final proof. This law does not repeal or modify the acts of March 2, 1889 (25 Stat., 854), June 25, 1910 (36 Stat., 864), and April 30, 1912 (37 Stat., 105).

COMMUTATION.

(14) The privilege of commutation after 14 months' actual residence, as heretofore required by law, is unaffected by this legislation, excepting that the person commuting must be at the time a citizen of the United States. It has heretofore been the practice to permit the making of commutation proof upon a homestead entry by one who had merely declared his intention to become a citizen of the United States and prior to his actual naturalization. This practice, however, is abrogated, and in instances where commutation proof is made after the passage of this act it should be exacted and shown that the claimant, if foreign born, has become fully naturalized. Commutation proof can not, however, be made on entries under the enlarged homestead laws, the reclamation act, or on entries made under any other homestead law which prohibits commutation. As a rule of administration it will be required that upon submission of commutation proof in support of an entry made subject to the act of June 6, 1912, the cultivation of not less than one-sixteenth of the area embraced in the entry must be shown, that being the least amount of cultivation contemplated by Congress in connection with entries made under said act, unless the area capable of cultivation has been shown to be less than that amount, and for that reason the specific requirement made by the statute has been reduced.

DEATH OF THE HOMESTEAD ENTRYMAN.

(15) Where the person making homestead entry dies before the offer of final proof those succeeding to the entry in the order prescribed under the homestead law, in order to complete such entry, must show that the entryman had complied with the law in all respects to the date of his death and that they have since complied with the law in all respects as would have been required of the entryman had he lived, excepting that they are relieved from any requirement of residence upon the land. It follows as a consequence that where the entryman had not complied with the law in all respects prior to his death the entry will be forfeited and, upon proof thereof, such entry will be canceled. This will apply to all entries made under the new law.

EFFECT OF NEW LAW ON ENTRIES MADE PRIOR THERETO.

(16) An entryman whose entry was made prior to June 6, 1912, may avail himself of the provisions of section 2291 as amended; however, if he desires to submit proof in accordance with the law under which his entry was made he may do so and need not have filed the election provided for in the last proviso to the amended section, the necessity for such election having been abrogated by a provision in the act making appropriations for sundry civil expenses of the Government approved August 24, 1912 (37 Stat., 455), but

he must, in his published notice, state the law under which his proof is to be offered. Final proof under the new law must be made within five years from date of entry.

RULE PRESCRIBED RESPECTING CULTIVATION TO BE SHOWN ON ENTRIES MADE PRIOR TO, BUT ADJUDICATED UNDER, NEW LAW.

(17) It may be that such prior entryman can not show that he had cultivated one-sixteenth of the area embraced in his entry beginning with the second year of the entry and one-eighth beginning with the third year of the entry and until final proof, although he may have had during the year preceding his offer of proof one-eighth or more of the area embraced in his entry under actual cultivation, and may have cultivated one-sixteenth during the previous year, thus accomplishing the amount of cultivation required as a general rule under the new law, but not in the order and for the particular years required by that law.

(18) By the section I am authorized, under rules and regulations to be prescribed by me, to reduce the required area of cultivation. Acting thereunder, I have prescribed the following rule to govern action on proof submitted under the new law where the homestead entry was made prior to June 6, 1912:

Respecting cultivation necessary to be shown upon such an entry, in all cases where, upon considering the whole record, the good faith of the entryman appears, the proof will be acceptable if it shows cultivation of at least one-sixteenth for one year and of at least one-eighth for the next year and each succeeding year until final proof, without regard to the particular year of the homestead period in which the cultivation of the one-sixteenth was performed.

TIME FOR PROOF ON ENTRIES MADE BEFORE, BUT ADJUDICATED UNDER, NEW LAW.

(19) The new law also requires that the proof shall be made within five years from date of entry and if the entry is to be administered under that law the department is not authorized to extend the period within which proof may be made, but when submitted after that time, in the absence of adverse claims, the entry may be submitted to the Board of Equitable Adjudication for confirmation.

(20) Respecting entries heretofore or hereafter made requiring payment for the land entered in annual installments extending beyond the period of residence required under the new law, the homesteader may make his proof as in other cases, but final certificate will not be issued until the entire purchase price has been paid.

Very respectfully,

WALTER L. FISHER, *Secretary.*

AN ACT To amend section twenty-two hundred and ninety-one and section twenty-two hundred and ninety-seven of the Revised Statutes of the United States relating to homesteads.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twenty-two hundred and ninety-one and section twenty-two hundred and ninety-seven of the Revised Statutes of the United States be amended to read as follows:

"SEC. 2291. No certificate, however, shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if he be dead his widow, or in case of her death his heirs or devisee, or in case of a widow making such entry her heirs or devisee, in case of her death, proves by himself and by two credible witnesses that he, she, or they have a habitable house upon the land and have actually resided upon and cultivated the same for the term of three years succeeding the time of filing the affidavit, and makes affidavit that no part of such land has been alienated, except as provided in section twenty-two hundred and eighty-eight, and that he, she, or they will bear true allegiance to the Government of the United States, then in such case he, she, or they, if at that time citizens of the United States, shall be entitled to a patent, as in other cases provided by law: *Provided*, That upon filing in the local land office notice of the beginning of such absence, the entryman shall be entitled to a continuous leave of absence from the land for a period not exceeding five months in each year after establishing residence, and upon the termination of such absence the entryman shall file a notice of such termination in the local land office; but in case of commutation the fourteen months' actual residence, as now required by law, must be shown, and the person commuting must be at the time a citizen of the United States: *Provided*, That when the person making entry dies before the offer of final proof, those succeeding to the entry must show that the entryman had complied with the law in all respects to the date of his death, and that they have since complied with the law in all respects, as would have been required of the entryman had he lived; excepting that they are relieved from any requirement of residence upon the land: *Provided further*, That the entryman shall, in order to comply with the requirements of cultivation herein provided for, cultivate not less than one-sixteenth of the area of his entry, beginning with the second year of the entry, and not less than one-eighth, beginning with the third year of the entry, and until final proof, except that in the case of entries under section six of the enlarged-homestead law, double the area of cultivation herein provided shall be required; but the Secretary of the Interior may, upon a satisfactory showing, under rules and regulations prescribed by him, reduce the required area of cultivation: *Provided*, That the above provision as to cultivation shall not apply to entries under the act of April twenty-eighth, nineteen hundred and four, commonly known as the Kinkaid Act, or entries under the act of June seventeenth, nineteen hundred and two, commonly known as the reclamation act, and that the provisions of this section relative to the homestead period shall apply to all unperfected entries, as well as entries hereafter made, upon which residence is required: *Provided*, That the Secretary of the Interior shall, within sixty days after the passage of this act, send a copy of the same to each homestead entryman of record who may be affected thereby, by ordinary mail to his last-known address, and any such entryman may, by giving notice within one hundred and twenty days after the passage of this act, by registered letter to the register and receiver of the local land office, elect to make proof upon his entry under the law under which the same was made without regard to the provisions of this act."

"SEC. 2297. If at any time after the filing of the affiavit as required in section twenty-two hundred and ninety, and before the expiration of the three years mentioned in section twenty-two hundred and ninety-one, it is proved, after due notice to the settler to the satisfaction of the regiser of the land office, that the person having filed such affidavit has failed to establish residence within six months after the date of entry, or abandoned the land for more than six months at any time, then and in that event the land so entered shall revert to the Government: *Provided*, That the three years' period of residence herein fixed shall date from the time of establishing actual permanent residence upon the land: *And provided further*, That where there may be climatic reasons, sickness, or other unavoidable cause, the Commissioner of the General Land Office may, in his discretion, allow the settler twelve months from the date of filing in which to commence his residence on said land under such rules and regulations as he may prescribe."

Approved, June 6, 1912 (37 Stat., 123).

WASHINGTON : GOVERNMENT PRINTING OFFICE : 1913

IN REPLY PLEASE REFER TO-- Circular No. 209.
"M" CTMC

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

February 25, 1913.

ACCOUNTS: Claims for repayment.

Registers and Receivers,

United States Land Offices.

Sirs:

Your attention is directed to paragraph 92 of Circular No. 105, which reads as follows:

"In case an applicant will waive his appeal in writing from the rejection or adverse action of the local officers, the receiver may, upon receipt of such waiver, return by his official check whatever moneys were tendered with the rejected paper, in the event there is no provision of law or official regulations requiring that such money be placed in the Treasury of the United States; otherwise, the receiver must hold such moneys as unearned until the period for appeal has expired, or until, if an appeal is taken, the same is disposed of, when, according to the final action taken, the money should be applied or returned."

You are directed, upon the receipt of an application for repayment of moneys that may be held by the receiver of public moneys as "Unearned Moneys--Trust Funds," under the instructions contained in paragraph 81 of Circular No. 105, to search the records of the receiver, and if the item is found "Unearned" to proceed as indicated in the above-quoted instructions.

Attention is also directed to paragraph 6 of the circular of May 16, 1907 (35 L. D., 568), which circular promulgated the act of March 2, 1907 (34 Stats., 1245), in which it is set forth:

Circular No. 209--2.

"Under the second proviso in section 4 of said act, a homestead entryman, who offers commutation proof under section 2301, U. S. R. S., is allowed ten days after receiving notice that his proof has been accepted, within which to pay the commutation price of the Land." x x x

"Moneys already paid on commutation proofs that are now suspended, reported in the account of 'Unearned Moneys--Trust Funds', may be retained in said account until the suspended proofs are finally accepted or rejected; or, pending final action on such proofs, the purchase money shall, upon application, be returned to the depositors without prejudice to their homestead rights."

"If a homestead entryman, after being notified of the approval of his commutation proof, fails to make payment within ten days his application will be rejected and the register will notify him thereof."

The above instructions are again called to your attention for the reason that this office has received numerous applications for repayment of moneys, which upon examination have been found to be held as "Unearned Moneys--Trust Funds" by receivers, thus causing much annoyance and delay to applicants.

Very respectfully,

Fred Dennett

Commissioner.

2-24 BK

In Reply Please Refer To--Circular No. 210.

MAR 13 1913

"P"

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

February 28, 1913.

: Applications by settlers to make
: nonmineral entries of withdrawn
: lands under the provisions of
: Section 2 of the act of June 25,
: 1910. Instructions.

Registers and Receivers,
United States Land Offices.

Gentlemen:

Your attention is called to the instructions of the Secretary, dated March 6, 1911, under the act of June 25, 1910 (36 Stat., 847), published in 39 L. D., 544. Said instructions state, referring to Section 2 of the act:

> "This section contains further provision to the effect that there shall be excepted from the force and effect of any withdrawal all lands which are on the date of withdrawal embraced in any lawful homestead, or desert-land entry theretofore made or upon which any valid settlement has been made, and is at that time being maintained and perfected pursuant to law. Applications to make nonmineral entries by settlers claiming the benefits of the above-mentioned provisions of Section 2, will be referred to the chief of the appropriate field division for investigation and report before final action is taken thereon".

It has been noted that in a number of instances applications to make nonmineral entries of withdrawn lands by settlers claiming the benefits of the act have been allowed by local land officers without reference to the chief of field division and in the absence of the investigation and report required by the above-quoted instructions, and that, in other instances, such applications have been rejected by the local land officers.

When such an application is filed in your office, same should be suspended and transmitted by you to this office and the case called to the attention of the chief of field division in order that appropriate investigation may be made and report submitted to this office, where the question of the allowance or rejection of the application will be determined.

Respectfully,

Fred Dennett

Commissioner.

2-17 ms

modified by Circ. 246

CIRCULAR No. 211.

NO APPROXIMATION ALLOWED IN APPLICATIONS UNDER SECTIONS 2306 AND 2307, REV. STAT.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, March 8, 1913.

REGISTERS AND RECEIVERS,
United States Land Offices.

GENTLEMEN: November 23, 1912, the department, in the case of Ernest P. Spaeth, Sundance 05045, an application under sections 2306 and 2307, Rev. Stat., ruled as follows:

> Hereafter no approximation will be allowed in the matter of the location of soldiers' additional rights; first, because the law forbids it, in this, that it grants the right to enter further lands in amount that, with that originally entered, "shall not exceed one hundred and sixty acres," and, second, that as consolidation of such rights is respected, the reason for the rule of approximation, viz, necessity, is gone, because further rights can be secured and substituted in amount to equal that desired. The rule announced in the case of George E. Lemmon (37 L. D., 28) is hereby recalled and vacated.

Under the above ruling you will require all applicants under said sections 2306 and 2307, Rev. Stat., to file rights for an area equal to the area of the land applied for.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved:
LEWIS C. LAYLIN,
Assistant Secretary.

83855°—13

In reply please refer to Circular No. 212

"FS" PIB

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

Washington March 11, 1912

Appraisement of isolated tracts--
Notation on records.

Registers and Receivers,
United States Land Offices.

Sirs:

Upon receipt of a report of the Chief of Field Division provided for in Section 2, Paragraph 23, of Circular No. 72, dated January 19, 1912, and in Section b, Paragraph 8, of Circular No. 202, dated December 18, 1912, you will make notations on your records of the price of the land as reported by the Chief of Field Division, and should no sale result based upon the application presented, any subsequent applications under said acts for the same land, presented within three years from date of the report of the Chief of Field Division, need not be referred to the Chief of the Field Division, but you will, before transmitting same to this office, note thereon the price of the land as reported by the Chief of Field Division, making reference to the serial number of the former application.

Respectfully,

Fred Dennett

Commissioner.

Approved:

Lewis C. Laylin

Assistant Secretary.

In reply please refer to Circular No. 213.
"FS" ACB

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

MAR 24 1913

March 11, 1913.

: In re notice to claimants that action
: is withheld pending investigation.

Registers and Receivers,
United States Land Offices.

Gentlemen:

It is noted that in cases where certificates are withheld on request of chiefs of field divisions pending investigation, many of the local officers notify claimants on form 4-362 that proof has been "suspended" because "protested" by the chief of field division.

Such notice is misleading and in many cases interpreted by claimants to mean that the chief has filed charges against their entries and that action is being taken of which they have not received notice to which they are entitled. Entrymen who have made sufficient compliance with the law are often unnecessarily alarmed and write this office requesting information as to the nature of the charges preferred by the chief.

The use of the "protest" and "nonprotest" stamps by chiefs of field divisions was discontinued (Circular No. 90) April 15, 1912, and in lieu of the "protest" stamp, the following indorsement is used:

> "Please withhold final certificate until field investigation has been made and report submitted."

In order that claimants may be advised as to the real status of such cases, a new blank has been prepared, Form No. 4-190, a supply of which will be furnished you at once. You will hereafter use this blank, and no other, in notifying claimants that certificate has been withheld pending field investigation.

Respectfully,

Fred Dennett

Commissioner.

Approved: March 11, 1912.

Louis A. Laylin

Assistant Secretary.

MAR 18 1913

IN REPLY PLEASE REFER TO--Circular No. 214.

"M" FTL 1 Inc.

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

March 12, 1913.

RETURNS AND ACCOUNTS: Report of Fees for Reducing Testimony to Writing, etc.

Registers and Receivers,
United States Land Offices.

Sirs:

Hereafter, registers will not show in the "Summary" of the "Schedule of Allowances" the following information:

Reducing testimony to writing, etc.
Reducing testimony to writing in contest cases.
Excess Payments.
Cancellation Fees.

Each month receivers will submit a brief report on letterhead paper with their accounts showing in one item, designated as "Reducing Testimony to Writing, etc.," total amount earned and reported on form 4-103a during the month for reducing testimony to writing, examining and approving testimony, transcripts of records, plats, etc., and in a separate item, designated as "Reducing Testimony to Writing in Contest Cases," total "Net Balance" earned for reducing testimony to writing in contest cases. Under the designation "Excess Payments" there will be shown total amount of payments earned each month on excess areas on homestead applications, together with the total number of such payments and area involved. Amount of cancellation fees, designated as "Cancellation Fees," must also be reported. This report must show the name of the office and month for which submitted.

When amounts are applied under paragraphs 137, 138 and 139, of Circular No. 105, you will designate in the "Serial Number" column on form 4-103a, opposite each amount, whether the same is for "Transcripts," "Plats," "Lists," or "Testimony," observing care to use a separate line for each item. It is essential that this abstract accurately show the above amounts earned in order that the report of such earnings above called for may be readily verified.

Circular No. 214--2.

When moneys are applied in connection with excess area you will note in the "Serial Number" column on form 4-103a, on a separate line, the area opposite the amount so applied. The sum total of the areas and amounts must agree with the report of such earnings.

The above instructions are necessitated by the numerous discrepancies disclosed in the comparison of the receivers' accounts with the fees and payments in question as reported in the "Summary" of the "Schedule of Allowances."

On the "Schedule of Allowances," when reporting an original homestead entry where an excess area is involved, show the full area opposite the entry involved and the original fee and commissions only. The amount of the excess payment must not be included with the fee and commissions. If a separate receipt issues for the excess payment, do not show the number of such receipt opposite the serial number involved.

Please acknowledge receipt hereof on the inclosed postal card.

Very respectfully,

Fred Dennett

Commissioner.

3-11-JHB

CIRCULAR NO. 216.

DESERT-LAND ANNUAL AND FINAL PROOFS—WATER RIGHTS, AND REPORTS THEREON.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, March 14, 1913.

REGISTERS AND RECEIVERS,
In the States of California, Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming, Arizona, and New Mexico.

SIRS: Your attention is called to paragraph 18 of the circular approved September 30, 1910 (39 L. D., 253), wherein it is stated:

> No expenditure for stock or interest in an irrigating company through which water is to be secured for irrigating the land will be accepted as satisfactory annual expenditure until a special agent or other authorized officer has submitted a report as to the resources and reliability of the company, including its actual water right, and such report has been favorably acted upon by the department.

By circular letter "G," of November 26, 1910, reference was made to the above-quoted paragraph, and you were directed to forward all annual proofs alleging such expenditures to this office with your regular returns, after noting on the margin of the proof: "Report as to water company not on file," with date, and to immediately report the matter to the Chief of the Field Division in which the land is situated, giving him all the information on hand in regard to the company, and requesting a report. You are also directed to keep an index of all the companies or corporations doing business in your district on which reports have been made and the character thereof, and also of cases submitted by you for investigation.

This office is in receipt of a large number of annual proofs on desert-land entries, alleging expenditures for stock or an interest in an irrigating company whereon no notation was made as directed, and in view of the time which has elapsed since the proofs were submitted without reports being received, it is evident that calls were not made on the Chiefs of Field Division for investigation and report.

You are hereby directed to make the necessary calls on the proper Chiefs of Field Division, and you will advise this office of the date when said request is made. You will note the name of the company on the index, and in no case will you make duplicate calls for report on the same company.

When receiving a notice of intention to submit *final proof* on a desert-land entry you will ascertain the source of water supply from the claimant, and if it appears that water is to be obtained from a company you will indorse on the duplicate notice of intention sent to the Chief of Field Division the name and address of the company.

You will require all proof-taking officers to secure this information and to advise you thereof when transmitting any applications to make proof to your office.

If you are unable to secure the information at the time of transmitting the notice to the Chief of Field Division, you will so note thereon, and immediately upon taking the final proof, or upon receipt of same in your office, you will ascertain the name of the company and advise the Chief of Field Division thereof, stating the number of shares or the interest held by the claimant.

You will in the future keep a confidential list (to be furnished only to authorized employees of this office) of all desert-land claimants alleging, in annual or final proofs, an expenditure for stock or interest in an irrigation company. These lists are to be made in the following form, and the detailed information called for must be given in each column as indicated:

THE ——— ——— IRRIGATION COMPANY.

List of desert-land entries claiming water rights from the above-named project. Report requested from Chief of Field Division on ——— ———.

D. L. E. serial.	Name of claimant.	No. of annual proof, final proof.	Amount of expenditure.	No. of shares.	Water contract.

Additional copies of this circular are inclosed, to be sent to all proof-taking officers in your district.

Acknowledge receipt hereof.

Very respectfully,

FRED DENNETT,
Commissioner.

WASHINGTON : GOVERNMENT PRINTING OFFICE : 1913

In reply please refer to Circular No. 217.

"FS" 10-311456 HLU 1 inc.

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

March 15, 1913.

: Action on certain cases within
: purview departmental circular
: of March 6, 1911.

Registers and Receivers,
U. S. Land Offices.

Gentlemen:

Your attention is called to the letter of the Assistant Secretary dated March 10, 1913, copy of which is attached, modifying the instructions of March 6, 1911, under the act of June 25, 1910 (36 Stat., 847), in so far as the same apply to entries or selections made upon lands withdrawn or classified as coal.

In view of this modification final certificate need not be withheld on entries or selections, otherwise regular, which come within the purview of the act of March 3, 1909, where an election is filed, or within the purview of Section 1 of the act of June 22, 1910, where a consent to receive a limited patent under that act is filed or there is nonaction by the claimant after notice. (See circular of September 8, 1910, paragraph 3b.)

These instructions will also apply particularly to those cases which are made under the act of June 22, 1910, and in which the claimant alleges a settlement or right prior to the withdrawal of the land as coal and files an election under the act of March 3, 1909.

Of course in any of the cases above referred to certificate should not be issued if a request that the same be withheld is received from the chief of field division.

Very respectfully,

Fred Dennett

Commissioner.

Board of Law Review,
By D. A. MILLRICK.

APR 7

In reply please refer to Circular No. 220
"A" McD

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

March 24, 1913.

: Revised regulations relative to
: rights of way for power purposes.

Registers and Receivers,

United States Land Offices.

Gentlemen:

Under separate cover there is being sent you a supply of "Regulations concerning rights of way through the public lands and reservations of the United States (except national forests) and the Yosemite, Sequoia, and General Grant National Parks, California, for power purposes," under the act of February 15, 1901 (31 Stat., 790), approved March 1, 1913.

If you have any copies of the prior issue of the regulations (approved August 24, 1912) on hand, they should be destroyed.

Respectfully,

Fred Dennett

Commissioner.

applies for repayment, after relinquishing while adverse proceedings were pending against his application and proof, and, as in this case, makes no showing whatever as to the absence of fraud or attempted fraud in connection with such application for entry, and the reports upon which said adverse proceedings were based, considered with said application for entry and proof, fairly show such fraud or attempted fraud, repayment would not be warranted, nor would the rejection, without a hearing, of an application for repayment upon such a record presented, no hearing being asked or showing made by the applicant as to the matter of fraud or attempted fraud in the case of his application for entry, be the denial of any legal right. Hearing might be ordered by the land Department on its own motion, in the exercise of its judgment and discretion, in such cases; but under the circumstances presented in this case, Keogh not having applied for any hearing or made any showing as to the matter of fraud in connection with his application for entry, and the record presented as to such application clearly showing such fraud or attempted fraud in connection therewith, his application for repayment was properly rejected.

The decision appealed from is accordingly affirmed, without prejudice to Keogh filing, should he desire, request for a hearing supported by showing upon the matter of fraud or attempted fraud in connection with his sworn statement; whereupon, should he make such request and showing, hearing will be ordered and the case be thereafter further adjudicated.

THOMAS J. KEOGH.

Motion for rehearing of departmental decision of March 25, 1913, 42 L. D., 28, denied by Assistant Secretary Laylin, May 17, 1913.

FREE USE OF TIMBER ON MINERAL PUBLIC LANDS.

REGULATIONS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., March 25, 1913.

To settlers and residents of Colorado, Nevada, New Mexico, Arizona, Utah, Wyoming, North Dakota, South Dakota, Idaho, and Montana, and the Chiefs of Field Divisions and Special Agents of the General Land Office:

By the act of June 3, 1878, chapter 150 (20 Stat., 88), it is provided:

That all citizens of the United States and other persons, bona fide residents of the State of Colorado or Nevada, or either of the Territories of New Mexico,

be observed in every case wherein the amount of timber to be cut in any one continuous period of 12 months exceeds $50 in stumpage value, whether the person doing the cutting is acting for himself or as an agent for another or others. Whether or not an application must be filed is to be determined by the fact as to whether or not the aggregate amount of timber to be cut in any one continuous period of 12 months, together with all amounts previously cut by or for the said person or persons during the same period exceeds $50 in stumpage value. This rule shall be applicable where the agent cuts for a number of persons under individual contracts entered into between him and them.

3. Where one or more persons desire to procure timber under this act through the services of an agent appointed for that purpose and the quantity to be procured in any one continuous period of 12 months exceeds $50 in stumpage value, the amount to be paid the agent for his services shall not exceed a fair recompense for the time, labor, and money expended by him in the undertaking, and said compensation must be determined at the time of the appointment and must be set forth in the contract between the parties, a copy of which must be presented with the application.

4. The proper protection of the timber and undergrowth necessarily varies with the nature of the topography, soil, and forests. No timber not matured may be cut and each tree must be utilized for some beneficial purpose. Persons taking timber for specific purposes will be required to take only such matured trees as will work up to such purpose without unreasonable waste. All brush, tops, lops, and other forest débris made in felling and removing timber under these rules and regulations shall be disposed of as best adapted to the protection of the remaining growth and in such manner as shall be prescribed by the Chief of Field Division, and failure on the part of an applicant or an agent cutting for an applicant to comply with this requirement will render him liable for all expenses incurred by the Chief of Field Division in putting this regulation into effect.

5. Permits granted under these instructions shall limit the area of the cutting so as to embrace only as much land as is necessary to produce the quantity of timber applied for and the lands to be cut over shall be so described in the application that they may be identified from the description set forth. Waste of timber will be discountenanced. Stumps will be cut so as to cause the least possible waste and all trees will be utilized to as low a diameter in the tops as possible.

6. In every case where timber is to be procured through the medium of an agent and said agent is a sawmill operator and the amount of timber applied for exceeds $50 in stumpage value, a bond equal to the amount of the triple stumpage value of the timber applied for

Arizona, Utah, Wyoming, Dakota, Idaho, or Montana, and all other mineral districts of the United States, shall be, and are hereby, authorized and permitted to fell and remove, for building, agricultural, mining, or other domestic purposes, any timber or other trees growing or being on the public lands, said lands being mineral, and not subject to entry under existing laws of the United States, except for mineral entry, in either of said States, Territories, or districts of which such citizens or persons may be at the time bona fide citizens, subject to such rules and regulations as the Secretary of the Interior may prescribe for the protection of the timber and of the undergrowth growing upon such lands, and for other purposes: *Provided*, The provisions of this act shall not extend to railroad corporations.

The act of June 3, 1878, *supra*, expressly declares that the Secretary of the Interior may prescribe rules and regulations for the protection of the timber upon the land of the character referred to in the act and an implied power is, therefore, conferred upon him to designate the sections or tracts of land where timber may be cut.

The following instructions shall govern with reference to timber cutting on vacant mineral public lands in the States named above.

1. Qualified persons, that is, *bona fide* residents of the States above named, may cut and remove timber free of charge from unoccupied, unreserved, mineral public lands within said States strictly for their own use for building, agricultural, mining, or other domestic purposes, but not for sale or disposal, nor for use by other persons, nor for export from the State in which the timber is situated and where the cutting or removal of timber or lumber does not exceed in stumpage value the amount of $50 in any one continuous period of 12 months, the person desiring to cut and remove the timber may do so without making any previous application therefor: *Provided, however*, That he shall first notify the proper chief of field division by registered letter, in which he shall set forth the kind and quantity of timber which he intends to cut, and the use for which cut; and he shall also describe the land on which said cutting is to be done by township and range and by section and sectional subdivision thereof, if it be surveyed, or by natural objects sufficient to identify the land if it be unsurveyed.

2. Where a greater quantity of timber than that specified in the preceding paragraph is desired by any one person, or, where an agent, appointed for such purpose by one or a number of persons, desires to cut or remove more than $50 worth of timber in any one continuous period of 12 months, application must first be made to the Commissioner of the General Land Office for the purpose of determining whether or not the cutting of the timber should be confined to any particular sections or tracts of land, and further for the purpose of according the Commissioner of the General Land Office in the event he should so desire an opportunity of directing how the tops and other refuse may be disposed of for the protection of the timber remaining and the prevention of forest fires. This regulation must

will be required conditioned to the faithful performance of the requirements contained in these rules and regulations and of the above referred to agreement entered into between the special agent and the beneficiary or beneficiaries of the cutting relative to the disposal of the refuse.

7. Applications filed under the above act shall set forth the names and legal residence of persons applying to fell and remove timber thereunder and the names and legal residence of persons who are to use the same. If the applicant be a corporation, the application shall set forth the State in which the corporation was incorporated. It shall also contain the amount of timber required by each applicant; the use to be made thereof; a description of the land from which the timber is to be cut; the date it is desired to begin cutting; and, where the cutting is to be done through the medium of an agent, the contract price to be paid to said agent. The application must be verified by an applicant.

8. Blank forms for making applications may be procured from the chief of field division for the division in which the land on which the cutting is to be done is situated. The application when executed is to be filed with that chief of field division. Immediately upon receipt of said application the chief of field division shall cause an investigation to be made of the lands and of material statements in the application. With this respect he shall be guided by the instructions contained in circular of August 21, 1907 (36 L. D., 73). Said instructions as promulgated were intended to be applicable to investigations upon applications for the free use of timber on vacant, unreserved, nonmineral, public lands. They are hereby declared to be also applicable to investigations relative to the application for free use of timber upon vacant, unreserved, mineral, public lands. Whenever they are to be applied to the latter mentioned class of applications the term mineral will be used instead of the term nonmineral.

9. Upon completion of an investigation the chief of field division may, if he considers the facts warrant it, grant a license, subject to revocation or revision by the Commissioner of the General Land Office, and he shall transmit the application, together with a report thereupon, and a copy of the license if one be granted. The report shall show:

(1) The description of the land to be cut over.

(2) Whether the lands are mineral.

(3) Whether the applicants are: (*a*) Qualified to fell and remove, and (*b*) authorized to use the timber applied for.

(4) What percentage of the matured timber may be taken consistent with proper protection of the remaining timber and undergrowth.

therefor. The statute does not prescribe the method of measurement to be followed in ascertaining the length, simply requiring that the claims shall not exceed "one mile in length." Any method of measurement adopted where the claims are irregular in form must necessarily be arbitrary, and it is believed that the Department has, under the law, ample discretion to adopt such a method as will best subserve the purpose and intent of the statute and the interests of the homestead claimants and the national forests in which the claims are situated. The so-called mile-square control method of determination is simple and affords ample discretion to the Secretary of Agriculture and his subordinates in selecting and listing for entry such agricultural lands, while at the same time preventing an unreasonable extension of long and narrow claims over the lands reserved. Measuring due north and south or due east and west across claims listed and surveyed within a square mile, the claims will in no instance exceed one mile in length, and this is believed to conform to the intent and requirement of the statute.

You are accordingly directed in future to recognize and approve surveys of forest homesteads listed under the act of June 11, 1906, which conform to the construction given the act by the Department of Agriculture in September, 1908, and to recall any contrary instructions given by you to surveyors-general.

#223
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FREE USE OF TIMBER ON NONMINERAL PUBLIC LANDS.

REGULATIONS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., March 25, 1913.

To settlers and residents of Colorado, Montana, Idaho, North Dakota, South Dakota, Wyoming, Nevada, Utah, Arizona, New Mexico, California, Oregon, and Washington, and to Chiefs of Field Divisions and Special Agents of the General Land Office:

By the act of March 3, 1891 (26 Stat., 1093), as extended by the acts of February 13, 1893 (27 Stat., 444), July 1, 1898 (30 Stat., 618), and March 3, 1901 (31 Stat., 1436), it is provided that in the States of Colorada, Montana, Idaho, North Dakota, South Dakota, Wyoming, Nevada, Utah, Arizona, New Mexico, California, Oregon, and Washinton:

> In any criminal prosecution or civil action by the United States for a trespass on such public timberlands, or to recover timber or lumber cut thereon, it shall be a defense if the defendant shall show that the said timber was so cut or removed from the timberland for use in such State or Territory by a resident

thereof for agricultural, mining, manufacturing, or domestic purposes, under rules and regulations made and prescribed by the Secretary of the Interior, and has not been transported out of the same; but nothing herein contained shall operate to enlarge the rights of any railway company to cut timber on the public domain: *Provided*, That the Secretary of the Interior may make suitable rules and regulations to carry out the provisions of this act, and he may designate the sections or tracts of land where timber may be cut, and it shall not be lawful to cut or remove any timber except as may be prescribed by such rules and regulations; but this act shall not operate to repeal the act of June third, eighteen hundred and seventy-eight, providing for the cutting of timber on mineral lands.

The act of March 3, 1891, *supra*, originally extended to the District of Alaska, but it has been superseded in that respect by section 11 of the act of May 14, 1898 (30 Stat., 414), under which separate regulations are prescribed for that district.

The act of March 3, 1891, *supra*, does not confer upon anyone the right to cut and remove timber from nonmineral public lands, but, on the contrary, merely provides that such timber may be cut and removed for agricultural, mining, manufacturing, or domestic purposes as the Secretary of the Interior may permit and from such lands as he shall designate in accordance with suitable rules and regulations which he may from time to time promulgate. The aforesaid act did not intend to provide a defense to anyone who cuts and removes timber on nonmineral public lands unless the cutting and removal was in accordance with prescribed rules and regulations, otherwise the cutting must be considered a trespass.

In accordance with the authority expressly conferred upon the Secretary of the Interior by the terms of the act of March 3, 1891, *supra*, settlers upon public lands and other residents of the States above named are hereby granted the privilege of cutting and removing, free of charge, timber from unoccupied, unreserved, nonmineral public lands within said States, strictly for their own use when actually needed for firewood, fencing, building, or other agricultural, mining, manufacturing, and domestic purposes, under the following conditions:

1. Timber not to exceed $50 in stumpage value in any one continuous period of 12 months may be cut and removed without the previous filing of an application therefor, provided that the person desiring the timber shall first notify the proper chief of field division of the General Land Office by registered letter that he intends to cut timber on vacant, unreserved, nonmineral public lands, and shall set forth therein the kind and quantity of timber to be cut and a description of the land on which the cutting is to be done, by township and range and by section and sectional subdivision thereof, if it be surveyed, or by natural objects sufficient to identify the land, if it be unsurveyed.

2. Where a greater quantity of timber than that specified in the preceding paragraph is desired during any one continuous period of 12 months, an application must first be filed with the chief of field division on a form to be furnished by him on request, and permission to cut the timber applied for may be granted by him, subject to revocation or revision by the Commissioner of the General Land Office, if in his opinion the applicant is a qualified beneficiary under the act of March 3, 1891, and actually needs the timber applied for; provided, however, that a license shall not be granted by a chief of field division permitting the cutting of timber exceeding $200 in stumpage value during any one continuous period of 12 months.

3. Permission to cut an amount of timber exceeding $200 in stumpage value during any one continuous period of 12 months shall be granted only upon showing of special necessity therefor, and upon direct approval by the Secretary of the Interior.

4. Where one or more persons, desiring timber under the provisions of the act of March 3, 1891, are not in a position to procure the same for themselves, an agent or agents may be appointed for that purpose. Such agent or agents shall not be paid more than a fair recompense for the time, labor, and money expended in procuring the timber and manufacturing the same into lumber, and no charge shall be made for the timber itself, and, where the aggregate amount of timber to be cut during any one continuous period of 12 months exceeds $50 in stumpage value, said compensation must be set forth in a written contract to be entered into by the parties, and a copy thereof must be filed with the application.

5. Where a number of qualified persons combine and employ the same agent or agents to cut or manufacture the timber applied for, an application must be filed if the aggregate amount of timber to be cut in any one continuous period of 12 months together with all amounts previously cut by or for any one or more of the said applicants during the same period exceeds $50 in stumpage value. This rule shall also be applicable where the agent or agents cut for a number of persons but under individual contracts with them.

6. The proper protection of the timber and undergrowth necessarily varies with the nature of topography, soil, and forests. No timber not matured may be cut, and each tree taken must be utilized for some beneficial domestic purpose. Persons taking timber for specific purposes will be required to take only such matured trees as will work up to such purpose without unreasonable waste. All brush, tops, lops, and other forest débris made in felling and removing timber under these rules and regulations shall be disposed of as best adapted to the protection of the remaining growth and in such manner as shall be prescribed by the chief of field division, and failure on the part of an applicant, or an agent cutting for an applicant, to comply with this

requirement will render him liable for all expenses incurred by the chief of field division in putting this regulation into effect.

7. In every case where timber is to be procured through the medium of an agent, and said agent is a sawmill operator, and the amount of timber applied for exceeds $50 in stumpage value a bond equal to three times the amount of the stumpage value of the timber applied for will be required, conditioned on the faithful performance of the requirements contained in these rules and regulations and of the above-referred-to agreement entered into between the special agent and the beneficiary or beneficiaries of the cutting relative to the disposal of the refuse.

8. Permits granted under these instructions shall limit the area of the cutting so as to embrace only as much land as is necessary to produce the quantity of timber applied for, and the lands to be cut over shall be so described in the application that they may be identified from the description set forth. Waste of timber will be discountenanced. Stumps will be cut so as to cause the least possible waste, and all trees will be utilized to as low a diameter in the tops as possible.

9. Applications filed under the above act shall set forth the names and legal residences of persons applying to fell and remove timber thereunder and the names and legal residences of persons who are to use the same. If the applicant be a corporation, the application shall set forth the State in which the corporation was incorporated. It shall also contain the amount of timber required by each applicant, the use to be made thereof, a description of the land from which the timber is to be cut, and the date it is desired to begin cutting. The application must be verified by an applicant.

10. The application when executed is to be filed with the chief of field division for the division in which the land on which the cutting is to be done is situated. He shall note upon the application the date when said application was filed in his office and immediately cause an investigation to be made in compliance with the instructions contained in circular of August 21, 1907 (36 L. D., 73). He shall also set forth in his report the stumpage value of the timber applied for. If the cutting is to be done by a sawmill operator he shall require a bond to be filed with him as above set forth. Upon the completion of an investigation the chief of field division shall note upon the application the action taken by him and shall then transmit the application and bond, if a bond be required, together with a report thereupon, and a copy of the license, if one be granted, to the Commissioner of the General Land Office. The report shall contain the agreement relative to the disposition of the tops, lops, and other débris, and when a bond is required said agreement shall be incorporated into the bond.

11. A permit granted by a chief of field division shall be subject to annulment or revision by the Commissioner of the General Land Office, and all rights and privileges thereunder shall terminate at the expiration of the period of one year from the date of the granting of the permit by the chief of field division. Persons who commence cutting upon receipt of a permit from a chief of field division before final approval by the Commissioner of the General Land Office will be liable to the Government for a reasonable stumpage value for timber so taken in the event that the permit is not finally approved because improperly granted. Where permits are secured by fraud, or immature trees are taken, or timber is not taken or used in accordance with the terms of the law or these rules and regulations, the Government will enforce the same civil and criminal liabilities as in other cases of timber trespass upon public lands.

12. Timber cut under these rules and regulations is not to be exported from the State in which it is cut, except as authorized by the act of July 1, 1898 (30 Stat., 618), providing for the export of timber from a specified area in the State of Wyoming into the State of Idaho, and by the act of March 3, 1901 (31 Stat., 1439), providing for the export of timber from a specified area in the State of Montana into the State of Wyoming.

13. The cutting of timber for sale and speculation or for use by others than those who apply for the same is strictly prohibited by these rules and regulations.

14. These rules and regulations shall be in force from and after March 25, 1913, and supersede the rules and regulations contained in circular of February 10, 1900. (29 L. D., 572.)

Respectfully,

FRED DENNETT,
Commissioner.

Approved:
LEWIS C. LAYLIN,
Assistant Secretary.

APPENDIX.

AN ACT Prohibiting timber depredations on public lands and providing a penalty for violation thereof.

Whoever shall cut or cause or procure to be cut, or shall wantonly destroy or cause to be wantonly destroyed, any timber growing on the public lands of the United States, or whoever shall remove or cause to be removed any timber from said public lands, with intent to export or to dispose of the same; or whoever, being the owner, master, or consignee of any vessel, or the owner, director, or agent of any railroad, shall knowingly transport any timber so cut or removed from said lands, or lumber manufactured therefrom, shall be fined not more than $1,000 or imprisoned not more than one year, or both. Nothing in this section shall prevent any miner or agriculturist from clearing his land

Still in effect 5/28/54 MS

Part 220 43 CFR

CIRCULAR NO. 225.

CONTEST—CONTESTANT—RELINQUISHMENT—PREFERENCE RIGHT.

Lee Circ. 436, 1462 + 1943

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 1, 1913.

REGISTERS AND RECEIVERS,
United States Land Offices.

GENTLEMEN: In accordance with the decision of the department in the case of Smith *v.* Woodford (41 L. D., ——), the Instructions approved September 15, 1910 (39 L. D., 217), have been amended to read as set forth below. You will apply the revised regulations in all pending unadjudicated and future contests.

1. In order to entitle a contestant to the preference right of entry conferred by section 2 of the act of May 14, 1880 (21 Stat., 140), it must appear not only that he has contested the entry and paid the land-office fees in that behalf but that he has actually procured the cancellation of the entry.

2. Where it appears of record that the defendant has been served with notice of contest personally or by publication, it will be conclusively presumed as a matter of law and fact that the relinquishment was the result of the contest, and the contestant will be awarded the preference right of entry without necessity for a hearing.

3. Where a good and sufficient affidavit of contest has been filed against an entry and no notice of contest has issued on such affidavit, or, if issued, there is no evidence of service of such notice upon the contestee, if the entry should be relinquished you will, as heretofore, immediately note the cancellation of the entry upon the records of your office. In such cases for purposes of administration a presumption will obtain that the contest induced the relinquishment and you will at once so notify the contestant and that he will be allowed to make entry accordingly. If the relinquishment is accompanied by the application of another than the contestant, you will at once advise the applicant of the pending contest and of the presumptive preference right thereunder, and that should the contestant in the exercise of such right make timely application for the land, showing himself duly qualified, said right can only be avoided on a showing that the contest charge was not true, or that the contestant is not a qualified applicant, or that the land is not subject to his application. Should the contestant apply for the lands, showing himself duly qualified, within the preference-right period, and the intervening applicant file request for a hearing, with his corroborated affidavit as to the facts above stated in avoidance of a preference right in the contestant, within 20 days after the filing of the contestant's application, hearing will be had, after at least 30 days' notice to all interested parties, upon the issues thus presented, the intervening applicant having the burden of proof. The contestant must pay all costs of the testimony as to the truth or falsity of the contest charge, and upon any other issue each party must pay the cost of taking the direct examination of his own witnesses and the cross-examination on his behalf of other witnesses.

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43 CFR 43, Part 220 — Lee Circ. 616 + 819

Should the local officers inadvertently allow an application filed with a relinquishment of a contested entry, they will, upon discovery of the error, immediately notify the contestant of his presumptive preference right and proceed in all other respects as above provided. Should a hearing be had, the intervening entryman may submit testimony with reference to his compliance with law prior to discovery of the erroneous allowance of the entry, as well as in support of the showing above provided for.

Nothing contained in the foregoing rule will preclude the exercise by the department of its authority to adjudicate cases as they may arise in accordance with the particular facts thereof and in the light of the settled principles of equity.

4. Where, prior to hearing in a contest, a junior contest is filed, alleging a valid ground for the cancellation of the entry, and in addition thereto the collusive nature of the prior contest, the junior contestant may, if the entryman has been served with notice of the prior contest, intervene at the hearing and submit testimony in support of his charges.

Should the junior contestant elect to offer testimony in support of his charge of collusion only, he will not gain a preference right of entry if such charge be established. If, at the time of the filing of the junior contest, notice is not issued on the prior contest, you will issue such notice and at the same time notice on the junior contest; the latter notice must recite all the charges contained in the affidavit and state, in addition, that the junior contestant will be allowed to appear at the time set for taking testimony in the prior contest and offer evidence in support of his charges. The junior contestant will be required to serve notice on both the prior contestant and the entryman.

5. If, before the case proceeds to a hearing, the entryman's relinquishment be filed, both contestants must be notified of the cancellation of the entry and of their right to apply to enter the land within 30 days after the receipt of such notice. Should both apply within such period, you will set a day for hearing, of which each shall have at least 30 days' notice, at which the junior contestant will be allowed to prove his charge of collusion and so defeat the claimed preference right of the prior contestant.

6. Where a junior contest charging collusion is not filed until after the prior contest has proceeded to a hearing, it will be suspended pending the closing of the latter case, and must wholly fail if the entry be canceled as the result of the prior contest. This, however, will not prevent the junior contestant from attacking the application of the successful contestant to make entry, upon the ground of collusion or for any other valid cause, should the latter attempt to exercise the preferred right of entry, nor, should the prior contest result in favor of the entryman, will the junior contestant be precluded from prosecuting his case if his affidavit, in addition to the charge of collusion, states a sufficient ground for the cancellation of the entry other than the charge involved in the trial of the prior contest.

Respectfully,

FRED DENNETT,
Commissioner.

Approved:
LEWIS C. LAYLIN,
Assistant Secretary.

WASHINGTON : GOVERNMENT PRINTING OFFICE : 1913

Russell's applications for soldiers' additional homestead locations on the E. ½ of NE. ¼ will be suspended to await action of the State, unless he elect to withdraw them. Should the State show that the time fixed by the General Land Office for its election is too short for it to act, the rule upon the State may be extended so that it may have time to act legally in the matter of a reconveyance.

FRED A. RUSSELL.

Motion for rehearing of departmental decision of June 8, 1912, 42 L. D., 69, denied by First Assistant Secretary Jones, July 22, 1913.

CONTEST—CONTESTANT—RELINQUISHMENT—PREFERENCE RIGHT.

INSTRUCTIONS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 1, 1913.

REGISTERS AND RECEIVERS,
United States Land Offices.

GENTLEMEN: In accordance with the decision of the department in the case of Smith *v.* Woodford (41 L. D., 606), the instructions approved September 15, 1910 (39 L. D., 217), have been amended to read as set forth below. You will apply the revised regulations in all pending unadjudicated and future contests.

1. In order to entitle a contestant to the preference right of entry conferred by section 2 of the act of May 14, 1880 (21 Stat., 140), it must appear not only that he has contested the entry and paid the land-office fees in that behalf but that he has actually procured the cancellation of the entry.

2. Where it appears of record that the defendant has been served with notice of contest personally or by publication, it will be conclusively presumed as a matter of law and fact that the relinquishment was the result of the contest, and the contestant will be awarded the preference right of entry without necessity for a hearing.

3. Where a good and sufficient affidavit of contest has been filed against an entry and no notice of contest has issued on such affidavit, or, if issued, there is no evidence of service of such notice upon the contestee, if the entry should be relinquished you will, as heretofore, immediately note the cancellation of the entry upon the records of your office. In such cases for purposes of administration a presumption will obtain that the contest induced the relinquishment and you

will at once so notify the contestant and that he will be allowed to make entry accordingly. If the relinquishment is accompanied by the application of another than the contestant, you will at once advise the applicant of the pending contest and of the presumptive preference right thereunder, and that should the contestant in the exercise of such right make timely application for the land, showing himself duly qualified, said right can only be avoided on a showing that the contest charge was not true, or that the contestant is not a qualified applicant, or that the land is not subject to his application. Should the contestant apply for the lands, showing himself duly qualified, within the preference-right period, and the intervening applicant file request for a hearing, with his corroborated affidavit as to the facts above stated in avoidance of a preference right in the contestant, within 20 days after the filing of the contestant's application, hearing will be had, after at least 30 days' notice to all interested parties, upon the issues thus presented, the intervening applicant having the burden of proof. The contestant must pay all costs of the testimony as to the truth or falsity of the contest charge, and upon any other issue each party must pay the cost of taking the direct examination of his own witnesses and the cross-examination on his behalf of other witnesses.

Should the local officers inadvertently allow an application filed with a relinquishment of a contested entry, they will, upon discovery of the error, immediately notify the contestant of his presumptive preference right and proceed in all other respects as above provided. Should a hearing be had, the intervening entryman may submit testimony with reference to his compliance with law prior to discovery of the erroneous allowance of the entry, as well as in support of the showing above provided for.

Nothing contained in the foregoing rule will preclude the exercise by the department of its authority to adjudicate cases as they may arise in accordance with the particular facts thereof and in the light of the settled principles of equity.

4. Where, prior to hearing in a contest, a junior contest is filed, alleging a valid ground for the cancellation of the entry, and in addition thereto the collusive nature of the prior contest, the junior contestant may, if the entryman has been served with notice of the prior contest, intervene at the hearing and submit testimony in support of his charges.

Should the junior contestant elect to offer testimony in support of his charge of collusion only, he will not gain a preference right of entry if such charge be established. If, at the time of the filing of the junior contest, notice is not issued on the prior contest, you will issue such notice and at the same time notice on the junior contest; the latter notice must recite all the charges contained in the affidavit

and state, in addition, that the junior contestant will be allowed to appear at the time set for taking testimony in the prior contest and offer evidence in support of his charges. The junior contestant will be required to serve notice on both the prior contestant and the entryman.

5. If, before the case proceeds to a hearing, the entryman's relinquishment be filed, both contestants must be notified of the cancellation of the entry and of their right to apply to enter the land within 30 days after the receipt of such notice. Should both apply within such period, you will set a day for hearing, of which each shall have at least 30 days' notice, at which the junior contestant will be allowed to prove his charge of collusion and so defeat the claimed preference right of the prior contestant.

6. Where a junior contest charging collusion is not filed until after the prior contest has proceeded to a hearing, it will be suspended pending the closing of the latter case, and must wholly fail if the entry be canceled as the result of the prior contest. This, however, will not prevent the junior contestant from attacking the application of the successful contestant to make entry, upon the ground of collusion or for any other valid cause, should the latter attempt to exercise the preferred right of entry, nor, should the prior contest result in favor of the entryman, will the junior contestant be precluded from prosecuting his case if his affidavit, in addition to the charge of collusion, states a sufficient ground for the cancellation of the entry other than the charge involved in the trial of the prior contest.

Respectfully,

FRED DENNETT,
Commissioner.

Approved:
LEWIS C. LAYLIN,
Assistant Secretary.

SETTLEMENT PRIOR TO JUNE 6, 1912—PROOF UNDER OLD LAW—ACT OF MARCH 4, 1913.

INSTRUCTIONS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, April 3, 1913.

REGISTERS AND RECEIVERS,
United States Land Offices.

SIRS: Your attention is directed to the following provision in the Deficiency Act of March 4, 1913 (37 Stat., 912, 925):

That any person entitled to enter lands under the homestead laws, who may have established residence upon unsurveyed lands (which were subject to

Circular No. 226. APR 12 1913

Department of the Interior
General Land Office
Washington

April 3, 1913.

Calling for list of attorneys to whom to send early information in re opening and sale of lands.

Registers and Receivers,

United States Land Offices.

Sirs:

It has been found helpful to furnish early information to local attorneys relative to prospective openings and sales of lands since they disseminate it largely among persons interested therein; and for the purpose of enabling the mailing of circulars of information to them as soon as they are issued you are requested to mail direct to James W. Witten of this office at an early date the names and addresses of five or more attorneys in the county in which your offices are located and of one or more attorneys in each of the counties in your districts who are actively engaged in practice before your office.

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Very respectfully,

FRED DENNETT,

Commissioner.

J. W. W.

Ans. Apr. 14,

APR 12 1913

CIRCULAR No. 227.

SETTLEMENT PRIOR TO JUNE 6, 1912--PROOF UNDER OLD LAW--ACT OF MARCH 4, 1913--INSTRUCTIONS.

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

April 3, 1913.

Registers and Receivers,

United States Land Offices.

Your attention is directed to the following provision in the Deficiency Act of March 4, 1913 (Public--No.434):

> That any person entitled to enter lands under the homestead laws, who may have established residence upon unsurveyed lands (which were subject to homestead entry) prior to the passage and approval of the act of June sixth, nineteen hundred and twelve, entitled "An act to amend section twenty-two hundred and ninety-one and section twenty-two hundred and ninety-seven of the Revised Statutes relating to homesteads," may perfect his proof for such lands under said act of June sixth, nineteen hundred and twelve, or under the law existing at the time of the establishment of such residence, as he may elect, such election to be signified to the Department of the Interior in accordance with rules and regulations to be prescribed by the Secretary.

The effect of this legislation is to confer upon those qualified to make homestead entry, who, prior to June 6, 1912, settled upon unsurveyed public lands of the character subject to such entry, the rights conferred by the act of June 6, 1912 (37 Stat., 123), upon those who, on that date, has unperfected entries of record. There is nothing in the act that modifies or changes existing law, with reference to the timely assertion of settlement claims after the filing of the plat of survey in the local office.

Circular 227--2.

Entries entitled to the benefits of the act under consideration will, when made, be adjudicated as provided by the circular of February 13, 1913 (41, L.D.), with reference to homestead entries made prior to June 6, 1912.

Where a proof heretofore submitted upon an entry, made since June 6, 1912, shows settlement to have been made upon unsurveyed lands prior to that date, but has been rejected by you for failure to show the cultivation required by said act of June 6, 1912, you will, if the papers are still in your office, reconsider the case with a view to possible acceptance of the proof under the old law.

Respectfully,

Fred Dennett

Commissioner.

APPROVED:

Louis A. Laylin

Assistant Secretary.

Russell's applications for soldiers' additional homestead locations on the E. ½ of NE. ¼ will be suspended to await action of the State, unless he elect to withdraw them. Should the State show that the time fixed by the General Land Office for its election is too short for it to act, the rule upon the State may be extended so that it may have time to act legally in the matter of a reconveyance.

FRED A. RUSSELL.

Motion for rehearing of departmental decision of June 8, 1912, 42 L. D., 69, denied by First Assistant Secretary Jones, July 22, 1913.

CONTEST—CONTESTANT—RELINQUISHMENT—PREFERENCE RIGHT.

INSTRUCTIONS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 1, 1913.

REGISTERS AND RECEIVERS,
United States Land Offices.

GENTLEMEN: In accordance with the decision of the department in the case of Smith *v.* Woodford (41 L. D., 606), the instructions approved September 15, 1910 (39 L. D., 217), have been amended to read as set forth below. You will apply the revised regulations in all pending unadjudicated and future contests.

1. In order to entitle a contestant to the preference right of entry conferred by section 2 of the act of May 14, 1880 (21 Stat., 140), it must appear not only that he has contested the entry and paid the land-office fees in that behalf but that he has actually procured the cancellation of the entry.

2. Where it appears of record that the defendant has been served with notice of contest personally or by publication, it will be conclusively presumed as a matter of law and fact that the relinquishment was the result of the contest, and the contestant will be awarded the preference right of entry without necessity for a hearing.

3. Where a good and sufficient affidavit of contest has been filed against an entry and no notice of contest has issued on such affidavit, or, if issued, there is no evidence of service of such notice upon the contestee, if the entry should be relinquished you will, as heretofore, immediately note the cancellation of the entry upon the records of your office. In such cases for purposes of administration a presumption will obtain that the contest induced the relinquishment and you

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will at once so notify the contestant and that he will be allowed to make entry accordingly. If the relinquishment is accompanied by the application of another than the contestant, you will at once advise the applicant of the pending contest and of the presumptive preference right thereunder, and that should the contestant in the exercise of such right make timely application for the land, showing himself duly qualified, said right can only be avoided on a showing that the contest charge was not true, or that the contestant is not a qualified applicant, or that the land is not subject to his application. Should the contestant apply for the lands, showing himself duly qualified, within the preference-right period, and the intervening applicant file request for a hearing, with his corroborated affidavit as to the facts above stated in avoidance of a preference right in the contestant, within 20 days after the filing of the contestant's application, hearing will be had, after at least 30 days' notice to all interested parties, upon the issues thus presented, the intervening applicant having the burden of proof. The contestant must pay all costs of the testimony as to the truth or falsity of the contest charge, and upon any other issue each party must pay the cost of taking the direct examination of his own witnesses and the cross-examination on his behalf of other witnesses.

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Nothing contained in the foregoing rule will preclude the exercise by the department of its authority to adjudicate cases as they may arise in accordance with the particular facts thereof and in the light of the settled principles of equity.

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Respectfully,

FRED DENNETT,
Commissioner.

Approved:
LEWIS C. LAYLIN,
Assistant Secretary.

SETTLEMENT PRIOR TO JUNE 6, 1912—PROOF UNDER OLD LAW—ACT OF MARCH 4, 1913.

INSTRUCTIONS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, April 3, 1913.

REGISTERS AND RECEIVERS,
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SIRS: Your attention is directed to the following provision in the Deficiency Act of March 4, 1913 (37 Stat., 912, 925):

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Circular No. 226. APR 12 1913

Department of the Interior
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Calling for list of attorneys to whom to send early information in re opening and sale of lands.

Registers and Receivers,

United States Land Offices.

Sirs:

It has been found helpful to furnish early information to local attorneys relative to prospective openings and sales of lands since they disseminate it largely among persons interested therein; and for the purpose of enabling the mailing of circulars of information to them as soon as they are issued you are requested to mail direct to James W. Witten of this office at an early date the names and addresses of five or more attorneys in the county in which your offices are located and of one or more attorneys in each of the counties in your districts who are actively engaged in practice before your office.

401

Very respectfully,

FRED DENNETT,

Commissioner.

J. W. W.

Ans. Apr. 14,

Circular No. 225. [illegible]

Department of the Interior
General Land Office
Washington

April 3, 1913.

Calling for list of attorneys to whom to send early information in re opening new area of lands.

Registers and Receivers,

United States Land Offices.

Sirs:

It has been found helpful to furnish early information to local attorneys relative to prospective openings and sales of lands since they disseminate it largely among persons interested therein and for the purpose of enabling the mailing of circulars of information to them as soon as they are issued you are requested to mail direct to James V. Witten of this office as early as possible the names and addresses of five or more attorneys in the county in which your offices are located and of one or more attorneys in each of the counties in your district who are actively engaged in practice before your office.

Very respectfully,

[illegible]

Commissioner.

In reply please refer to Circular No. 231.

"FS" 10-319983 HLU

DEPARTMENT OF THE INTERIOR
General Land Office
Washington

April 19, 1913.

: In re duplicate final
: proof notices.

Registers and Receivers,

U. S. Land Offices.

Gentlemen:

It is observed that in sending to the proper Chief of Field Division duplicate final-proof notices some of the local offices furnish the duplicate of the notice on Form 4-348a, "Notice for Publication (Register)". The duplicate which should be sent to the Chief of Field Division is the duplicate on Form 4-348, "Notice of intention to make Final Proof." This is the notice which is contemplated by Section 5 of the circular of April 24, 1907 (35 Stat., 681).

433

You are directed, therefore, to use care to see that the duplicate sent to the Chief of Field Division is the duplicate on Form 4-348, and you are also directed to insert in said duplicate the name of the paper in which the notice is to be published and also the name of the town at which the newspaper is published.

Respectfully,

FRED DENNETT

Commissioner.

4-11 HCG

MAY 5 1913

In reply please refer to Circular No. 233.

"N" WHL

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

April 23, 1913.

: Placer-mining claims.--
: Affidavits of improvements.

Registers and Receivers,

United States Land Offices.

Sirs:

Where placer-mining claims are applied for by legal subdivisions and proofs of improvements is furnished in accordance with paragraph 25 and 60, Mining Regulations, you will require the applicant to furnish the affidavits of improvements in duplicate, one copy to be forwarded by you immediately to the chief of field division, in order that he may have the information necessary to expedite an investigation of the claim. If preferred, the applicant may furnish copies of the original affidavits, instead of duplicates.

464

Very respectfully,

S. V. Proudfit

Assistant Commissioner.

CIRCULAR No. 235.

REGULATIONS GOVERNING SURVEYS OF HOMESTEAD ENTRIES WITHIN NATIONAL FORESTS UNDER THE ACT OF JUNE 11, 1906, AND ACTS AMENDATORY THEREOF, UNDER THE PROVISIONS OF THE ACTS OF AUGUST 10, 1912, AND MARCH 4, 1913.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 30, 1913.

United States Surveyors General:

SIRS: An act approved August 10, 1912 (37 Stats., 287), creating appropriations for the Department of Agriculture for the fiscal year ending June 30, 1913, contains the following:

> For the expenditure under the direction of the Secretary of Agriculture for survey and listing of lands within forest reserves chiefly valuable for agriculture and describing the same by metes and bounds, or otherwise, as required by the Act of June eleventh, nineteen hundred and six, and the Act of March third, eighteen hundred and ninety-nine, thirty-five thousand dollars: *Provided, however*, That any such survey and the plat and field notes thereof paid for out of this appropriation shall be made by an employee of the Forest Service under the direction of the United States surveyor general, but no land listed under the Act of June eleventh, nineteen hundred and six, shall pass from the forest until patent issues;

An act approved March 4, 1913 (Public—No. 430), creating similar appropriations for the fiscal year ending June 30, 1914, contains the following provision:

> *Provided*, That not to exceed $35,000 * * * may be expended under the direction of the Secretary of Agriculture for the examination, survey, and platting of certain lands now listed or to be listed within national forests chiefly valuable for agriculture and describing such lands by metes and bounds, as required (by the acts of 1899 and 1906 above mentioned), and hereafter such surveys, and the plats and field notes thereof, shall be made by employees of the Forest Service, to be designated by the United States Surveyor General, and such surveys and the plats and field notes thereof shall be approved by the United States surveyor general.

The provisions of the act of March 3, 1899 (30 Stats., 1095), differ somewhat from those of the act of June 11, 1906. They apply only to that portion of the Black Hills Forest Reserve as changed and enlarged by the proclamation of September 19, 1898 (30 Stats., 1783), which is in South Dakota, and are not considered herein.

Hitherto metes-and-bounds tracts to be listed under the act of June 11, 1906, have, in general, been marked on the ground by and in a manner customary with the Forest Service, and courses and distances between markings obtained by methods more or less accurate but sufficient for the purpose. This was followed by a different marking, astronomical methods, accurate chaining, practically closed sur-

veys, and critical examination of tracts and settlements in relation to prior surveys and vested rights, for use at final proofs. Such a survey and field notes thereof in proper form for permanent records were only obtainable through your special instructions approved by this office in each case.

It is now proposed to have metes and bounds surveys for listings so made by the officers of the Forest Service that they may be used as the surveys required at final proof under the act. The method of special instructions is adopted.

The following regulations, prepared with special regard to existing conditions, are issued for your guidance. In view of the ultimate purpose of such surveys made under your direction, it is convenient to refer to them as entry surveys in sections 1 to 53 hereof. These regulations will form part of your instructions in each case, and a copy will be furnished to the executing surveyor.

1. The direction instrument is to be a transit with or without solar apparatus, or a solar compass, of approved form, the least count of all arcs being one minute or less.

Horizontal distances, as lengths of lines, connections, and distances to objects noted will be returned in chains and links, and measured with the usual surveyor's chain or steel tape of 66 feet, adjusted to standard and divided or graduated into 100 links.

Approval is extended to the use of long steel tapes in making measurements directly on the slope, including the use of clinometers in the determination of slope angles, the slope distances to be properly reduced to true horizontal distances for entry in the official field notes. The fact of the use of the long steel tape and clinometer method is required to be stated in the field notes.

Kind and description of instrument and measure and their tests will be stated in the field notes.

Approval is extended to a restricted and proper use of the stadia method of measurement over surfaces that can not be accurately measured with the steel tape. You will require that there be included in the field notes the record of the test of the stadia wire interval as often as once a week when used, and a statement in the notes of the essential features of every stadia measurement, but not the detailed process of each reduction.

Offsets and well-conditioned triangulation may be employed when necessary, and details and results must be recorded in the field notes.

2. As required by statute, courses and bearings of all directions are to be found by reference to a meridian astronomically determined, and that they are so derived must be specifically stated in the field notes. They are not to be found directly or indirectly at any stage by reference to the magnetic needle. The meridian will be either determined or verified in connection with the specific survey in hand, or one already of record in your office may be used. From the meridian the compass bearings of directions, to the nearest minute of arc, will be found by necessary sustained angulation. The closing course of the survey thus obtained will be checked by direct reference to the meridian, and in case of discrepancy the series of courses will be examined and necessary correction made before leaving the field.

3. The meridian may be determined by a transit instrument from any of the astronomical observations authorized for use in regular surveys, in order of preference for this work as follows:

(*a*) Polaris at elongation, the latitude and star's declination being known. The latter may be had from the "Ephemeris," issued annually by this office. The latitude may be obtained from an observed greatest or least altitude of Polaris by properly applying refraction and polar distance; also from a meridian altitude of the sun's center, corrected for refraction and parallax, the declination being reducible from values tabulated in the Ephemeris when the longitude of the station is known with sufficient accuracy; also by account, that is, from the known distance, converted into arc, north or south of a point whose latitude is known.

As tangency of the plane of collimation to the apparent path of the star is the phenomenon observed, time is required only for convenience. It may be derived from values tabulated in the Ephemeris by applying a part of the daily change proportional to the longitude of the station from Greenwich, and a small tabulated correction due to the difference of the latitude of the station from 40°.

Azimuth at elongation in any latitude within the range of tabulation may be had by simple interpolation from values in the Ephemeris.

This method is the best and simplest, and is preferred. The only objection is that times of elongation are often inconvenient. Three other methods free from this objection, permitted in the regular surveys, are given below. Their use should not be authorized, however, until your office is assured, through your instructions or other source, that the surveyor is practically familiar with them.

(*b*) Polaris at a known hour angle, latitude and declination being known. This method requires that the error of the timepiece on local mean time be known. The time may be obtained by one of three methods authorized for use in regular surveys, namely: transit of sun over a meridian previously determined, the equation of time being reduced from values tabulated in the Ephemeris; altitude observation of the sun when refraction, latitude, declination, and equation of time are known; or comparison with a standard time telegraphic clock when the longitude of the station is known.

The Ephemeris tabulates values whence the azimuth of the star at any time at any station between latitudes 30° and 50° north may be found when the correct local mean time is known. This method is preferred next to the preceding.

(*c*) Sun at an observed altitude, refraction, latitude, and declination being known. In reducing from the Ephemeris the declination at the instant of observation, local mean time and longitude must be known with sufficient accuracy.

(*d*) Sun at an observed equal altitude before and after noon, latitude being known, and the change in declination in the interval.

4. A single determination of the meridian is not sufficient. A second, independent, determination will be had and in case of disagreement exceeding two minutes, the series will be discarded and a satisfactory series obtained; otherwise the mean of the determinations may be used.

5. The record in the field notes of the twin observations, up to and including the resulting azimuth of the reference object and final marking of the meridian, must also state and show the derivation of time, latitude, and longitude used in the reductions. Detailed computations will be submitted on sheets separate from the field notes,

which, after examination in your office, you will submit to this office with the returns.

6. Approval is extended to the use of a solar apparatus of approved form, in combination with a direction instrument, for determining meridians. Its use requires that the local apparent time and longitude be known with sufficient accuracy for reduction of declination and the refraction in declination or polar distance. To be considered in adjustment, an apparatus must hold the true meridian within two minutes of arc at all approved working hours with such an instrument, before and after noon, the testing meridian to be determined independently in approximately the latitude of the work in hand, by either of the three methods already mentioned. Such a test of recent date to the work in hand is to be recorded in the field notes. A partial test while the survey is in progress may often be had by an afternoon determination of a course ascertained in the morning, or vice versa, and such test should be of record. The action of the instrument and courses obtained should be checked by the angles of the survey independently read on the horizontal limb.

In field notes there should be recorded the details of at least one of the daily observations, that is, the local mean time and the latitude and declination settings. If the latitude setting, which must be that given by the apparatus at the station, is not the correct latitude, the index error should be stated.

7. A corner will be established at each change in direction of the boundaries of the entry survey, and if within regular surveys, at each intersection with the established section boundaries as these exist on the ground, distances being noted to the nearest regular corners each side.

The corners of a survey will be numbered consecutively beginning with No. 1. If within regular surveys, this number will be assigned to a regular corner, the same being a corner of the entry survey, or to an intersection with an accepted section boundary in good standing. In other cases the entry survey will be connected to the nearest corner of accepted regular surveys in good standing if within 2 miles, otherwise to a locating monument within the same distance, the latter to be connected to the nearest corner of regular surveys if within 2 miles; in either case the entry survey corner nearest to the point connected will be designated No. 1. The method of obtaining connections will be stated in the field notes, whether by direct measurement, random line, or traverse, with details of the latter.

8. It is essential that these surveys, unconformable to the regular system, be marked on the ground in the most permanent manner. A corner may consist of a durable stone not less than 24 inches long, set 14 inches in the ground, or a post of durable wood not less than 3 feet long, 4 inches square, set 24 inches in the ground, or a tree or rock in place. If the stone or post is longer than the minimum length mentioned, the extra length will be set in the ground. As stone is preferred, a justifying remark should appear in the field notes when posts are used.

9. Corners will be neatly scribed or chiseled on the side facing the claim, for instance, 3–HES45, for corner 3 of Homestead Entry Survey No. 45; a like marking will be placed on suitable bearing trees, bearing objects, etc., with the usual symbols, B T, B R, etc. Each corner or bearing point will be defined by a nail, arrowhead, or other

distinctive mark. Distances to bearing trees will be measured to centers, and scribings will be deep, and will read axially with the tree, with the B T as near the ground as possible, that the stumps may retain the markings should the trees be cut down.

10. Memorials of charcoal, marked stone, charred stake, or other distinctive material will be buried at the corner point when practicable, under the post or stone.

11. A corner will be witnessed by a mound of earth or stone, and additionally by two bearing trees (diameter to be expressed in inches), rocks, or objects when such can be had within 200 links of the corner point, selecting those that will best coordinately designate the point and in preference within the claim, and when these are not available that fact will be recorded and pits supplied; distances thereto will be recorded in links.

12. Corner witnesses at intersections with established section boundaries will be according to the regular closing section corner arrangements, forms, and dimensions—see forms 1 and 2, page 38 of the Manual of 1902—due regard being given to the direction of the closing line, as in section 67, page 30. If figure 10, Plate IV, originally prepared to illustrate positions for a north direction, be turned about to correspond with the direction in which the closing line is being run, it will indicate a proper disposition of mound and pits relative to the corner point. In case of oblique intersection, see sections 68 and 69, page 30, remembering always that the section boundary is the line being closed to. Such corners will have the symbol C C in addition to the other prescribed markings, and will be included in the consecutive series of corner numbers for the entire survey.

13. When corners at changes in direction of the boundary, not also intersections with established section boundaries, are witnessed by a mound and pits (of which there should be two), consider those portions of figure 1, Plate V, which show the NW. and SE. corners of a reservation, as modified to state pits and mound of the dimensions and in the positions stated in the following corner description, and the diagram will then represent proper size and arrangement of witnesses for the conditions therein figured. In case of reentering angles the pits may be nearer the corner point, and in case of an interior angle less than 90° the pits may have to be placed more remote. The mound will be placed within the boundaries of the tract as surveyed, diagonally from the corner point, as shown in the figure.

Set a granite stone, 26x10x8 ins., 16 ins. in the ground, over a stone marked with a cross for cor. 3 of this survey, marked 3–HES45 on side facing the claim; no bearings, therefore dig pits, 24x24x12 ins., crosswise on this and the succeeding course, 7 ft. dist.; and raise a mound of earth, 4 ft. base, 2 ft. high, 3½ ft. dist., within the claim.

14. A meander corner will have the mound, and pit if any, on line, and of the dimensions and in position relative to the stone or post indicated in figure 25, Plate IV.

15. As it is not purposed to issue the Manual of 1902 for the limited use it would be in these surveys, you will prepare a suitable synopsis of the Manual sections mentioned, with sketches, in harmony with the three foregoing paragraphs, and issue with the special instructions in each case.

16. Where witness corners are employed, justifying conditions requiring them will be stated in the field notes. Such corners should be as near to the respective true points as those conditions, the method of construction adopted, and a regard for permanence will permit. There will be one on each of the two lines meeting at a true point for corner. If such a witness can not be established on line within three chains of the true point, some other and suitable position will be selected within that distance and preferably on the tract. Witness corners will be in all respects as corners at true points would be, with the additional symbol W C plainly marked. All details of description and of position relative to true points are to be recorded in the field notes.

Courses will run to and start from true points for corners, and the field notes must definitely so indicate.

17. When connection to a locating monument becomes necessary, a locating or mineral monument already established and of record in your office should be used if within 2 miles, it being desired to avoid unnecessary increase of disconnected reference points. Otherwise a locating monument should be established within that distance, of the substantial form, with witnesses, mound, bearing trees, bearing objects, etc., and in the position in the region, prescribed for mineral monuments, concerning which the surveyors of the Forest Service appear to have been instructed. Proximity to the survey in hand is not the prime requisite in determining the location of such a monument; regard should be had to its convenient future use. When practicable it is desired, for obvious reasons, that the monument be connected by course and distance with other like monuments or surveys in the vicinity.

Except when a locating monument will not be required, you will furnish the surveyor with a number in your series of such monuments for his use in connection with the specific survey should occasion arise. If not used, the number may, in your discretion, be employed in connection with another survey. The letters U S L M and the number will be chiseled or cut on the side of the monument.

Full record of the locating monument thus established should appear in the field notes, as to the circumstances requiring its erection, and its description, markings, position, bearings, and connections.

18. Corners or previously established monuments to which the entry survey is connected become by relation monuments of the survey, and as such should be left in good condition, the repairs being described in the field notes.

19. Important natural topography should be noted along the boundaries of and within and near the claim, with special regard to timber, streams, and soil; also natural curiosities, as fossils or organic remains; also ancient works of art, as mounds, embankments, etc.; also improvements of every kind on the claim as to their position, nature, extent, value, and character of permanence; also the position, nature, and extent of easements held under statutes, as rights of way, etc.—in brief, all facts as to the claim and its surroundings ascertainable by survey should be noted and recorded.

Heights of hills, ridges, and banks of streams, depths of ravines, ascents and descents, size of buildings, and like dimensions should be recorded in feet.

Inquiry and field examination should be made to a reasonable extent as to the nonmineral character of the lands, and results stated in the field notes, especially when presumption to the contrary may arise through presence in the locality of known mineral claims, surveyed or unsurveyed; for, if the contrary is asserted and maintained as to any portion at any stage in the proceedings to patent, an amended survey will be necessary.

20. Field notes must state how and by what visible evidences the surveyor identifies on the ground as authentic the locating monuments and corners of prior surveys, used or referred to in the entry survey. If evidence found agrees with the description furnished by your office, a short form may be used; for instance, "Which is a ganite stone, showing 10 ins. above ground, marked and witnessed as described by the surveyor general": otherwise the full description as found will be stated. Such agreement in description is not always or necessarily conclusive; and in cases of misclosure the supposed corner may be spurious, or at least not official, and its position should be checked by lines run to undoubted corners.

21. With other information you will furnish the surveyor with listed descriptions of all alien claims in the neighborhood of the survey, to the extent of your records. But such information is not necessarily conclusive or complete, and the surveyor will note the position of the survey relative to all near-by and contiguous claims of any nature as monumented on the ground, that may come to his knowledge, making connections and retracements necessary for the purpose, and state the owners' names if known.

22. When a roadway through a homestead is exempted from listing, it is not held to defeat one entry to embrace tracts thus separated. The tracts will be designated, "Tract A," "Tract B," etc. The limits of the road or roads will constitute the boundaries of the tracts, and will be surveyed and marked as such, retaining one consecutive series of corner numbers for the entire survey. Alinement of the boundaries intersected by the road will be preserved, and connecting distances thereon between the tracts will be noted.

A road exemption from a tract to be described as in section 32, will require a demarcation of the boundary of at least the components invaded by the exemption, as in the like case of a metes and bounds tract, requisite subdivision lines of sections involved being temporarily located preparatory thereto. And when field processes of such subdivisions render it convenient, other similarly described adjacent components may be included. The survey will receive a consecutive number in your series, and corners be marked accordingly.

23. When a portion of a stream or other body of water is a boundary of the tract, the same will be meandered at mean high-water mark between terminal meander corners, by noting the general courses and lengths along the sinuosities, without monuments at each change in direction of the meanders so run. (Monuments at the angle points would give the lines between them the character of a boundary, which would limit the tract and thereby deprive the applicant of the rights usually attaching to water frontage.)

Also, in case it is intended to give an applicant the benefit of a water boundary and at the same time exempt a road along the bank, both sides of the road should be surveyed and monumented as herein

prescribed, but in such a manner as to leave a strip of land to the applicant between the road and the meandered line, that the strip to which the benefits attach may appear upon the plat according to which patent is intended to issue.

24. Determination of the position of the metes-and-bounds survey relative to accepted section boundaries *as these exist on the ground*, including intersections therewith, and to section subdivision boundaries in certain cases, is incident to a complete survey. Without it segregations can not be made in your office when hereafter required. It may impose justifying retracements, and in some cases restoration resurveys and a limited section subdivision. Under normal conditions these will not be excessive. When extensive obliterations or gross inaccuracies in surveys are developed, the surveyor should make full report to your office through the proper channel, of conditions found and his thorough search for corners and their witnesses of record, including memorials, and await your further instructions. After considering facts and records, you may find it advisable to connect the metes-and-bounds survey to a locating monument and the latter to the nearest identified corner of the regular surveys involved.

25. The tract embraced in the survey must not exceed 160 acres in area, or 1 mile in length. If two or more contiguous listings are to be embraced in one entry, or in an entry and another "additional" to it under authorizing statutes, the total area and length are limited as stated.

In harmony with a recent communication from the department, in which the subject of proper widths and lengths of entry surveys was fully discussed, the following instruction is stated:

> Any tract not exceeding 160 acres in area which may be contained in a square mile, the sides of which extend in cardinal directions, is understood to be within the meaning of the law.

As it is also the instruction of the Forester in the National Forest Manual on Claims, etc., in effect February 1, 1912, and the application of the rule to four possible cases illustrated therein by sketches, it is not expected that surveys will be presented that you may not approve under the rule.

26. A survey must not embrace lands patented, and necessary retracements will be made to that end. Neither should it embrace other claims, surveyed or unsurveyed, or entered lands, unless with the full understanding on the part of the applicant that an amended survey will be required at his expense if necessary to eliminate conflicts not proper to be included in patent. Surveys should be conducted accordingly.

27. Conflict with another claim of any description will be ascertained by noting intersections with its boundaries, retracing the latter for the purpose, and ascertaining the bearings and lengths of the boundaries of the conflict.

28. If the whole or any portion of the boundary of a legal subdivision, not also a section boundary, constitutes the boundary of a metes and bounds tract, the same will be temporarily located on the ground in accordance with the principles stated on pages 21, 22, and 23 of circular of June 1, 1909, a copy of which should be furnished to the surveyor; and the field notes must describe in detail all random lines and fallings, retracements, measurements, offsets, and processes inci-

dent to such location, with the resulting course and length of the boundary so ascertained. Corners of the survey which are also quarter or sixteenth-section corners will be additionally marked as such.

29. Should it be necessary for the completion of the survey to restore any missing official corner, in its original position always, such restoration will be made according to methods of the stated circular; and the field notes should fully describe an exhaustive search for the missing corner, including memorials if any, and for each and all of its witnesses of record, as well as the method and other details of its restoration.

30. Surveys will be made within suspended or unaccepted regular surveys in all respects as within accepted work, including closing corners and intersections, in order that data may be available for segregations should suspensions be removed or surveys accepted; and the status of the surveys, as accepted, approved, unapproved, suspended, etc., will be stated in the field notes in its proper connection. In those cases, however, connections will also be made to locating monuments or, in preference, to accepted official corners of the regular surveys in good standing, as if the suspended or unaccepted work did not exist. Should corrections subsequently be required of the suspended or unaccepted work, provision should be made at that time for a noting of the position of the entry survey relative to the corrected work, sufficient for segregation purposes.

31. Before leaving the field the surveyor should again read your instructions to ascertain that he has fully accomplished them. He should also test his survey for closure within the allowable limit of one three-hundred-and-twentieth, or 25 links per mile of perimeter, and make field corrections if necessary. Tabular statements of latitudes and departures, showing errors of closure, will be stated in the field notes. Submitted with the latter, but separate therefrom, will be a computation of areas, preferably by double meridian or double latitude distances.

If on surveyed land the traverse and area computations will be separate for each section involved. In this case there will also be submitted with the field notes, but separate therefrom, like traverses involving the several connections, grouping with them in the traverses adjacent portions of the boundaries of the section and of the entry survey in such a way that traverses of the closed figures thus to be formed may best reveal the sufficiency of the entry survey and its agreement with established section boundaries as of record or retraced. Such traverses must close within the limit stated. In case of misclosure necessary and sufficient justifying retracements of the prior surveys should be made and used in the traverse submitted.

32. Unless there are road reservations (sec. 22), metes-and-bounds surveys are not required within accepted regular surveys in good standing when the tract to be listed is to be described by legal subdivisions, or as a quarter or a half of a quarter-quarter section or rectangular lotted tract, or as a quarter or a half of a quarter-quarter-quarter section or rectangular lotted tract. But survey is required of metes-and-bounds parcels to be included therewith in listing and entry, in which case statutory contiguity must be obtained by a preliminary location of those regular boundaries that are also to bound the metes-and-bounds tract.

33. Manifestly, the execution of the survey must be subsequent in dates to those of your instructions. The survey will be an actual, independent survey made at the time in all its details, and not computed or compiled from former surveys official or otherwise. When discrepancies are developed, the prior surveys should be sufficiently retraced, and details of the retracement and resulting correct courses and distances appropriately recorded in field notes.

34. Field notes are to be prepared only on paper of the quality, size, and ruling in current use for regular surveys. They may be in writing or typewriting, in noncopying ink, using both sides of the paper, and in form for binding on the side. To be acceptable they must be clerically neat, not crowded, unmistakably legible, and free from erasures, corrections, or interlineations. Cut sheets will not be accepted, or those upon which writing appears beyond the ruled margins or within one-half inch of top or bottom edge. The sheets will be temporarily bound by stitching or fasteners admitting of removal without injury to the papers when future binding in books is contemplated.

From the abbreviations authorized by the Manual of 1902, you will list to the surveyor only those which are applicable and convenient in these surveys, to the exclusion of all other abbreviations, and instruct, and when necessary illustrate their proper and consistent use, especially in corner descriptions.

35. Field notes will have the following general arrangements:

(*a*) The title page should eventually contain information of the character suggested by the following form:

[Acts of June 11, 1906, Aug. 10, 1912, and Mar. 4, 1913.]

FIELD NOTES
of
Homestead Entry Survey No. 506
situated in the
Battlement National Forest
in
unsurveyed Section 30, Township 11 South, Range 93 W.
and
surveyed Section 25, Township 11 South, Range 94 W.
of the
Sixth Principal Meridian
COLORADO.

Survey executed by John T. Monroe (state official designation).
Under special instructions dated August 15, 1910.
Survey commenced September 20, 1910.
Survey completed September 25, 1910.

Applicant for listing, James Brasher.
Application No. 704, dated June 27, 1910.
List No. , dated

(*b*) The caption on each page will be, for instance, HOMESTEAD ENTRY SURVEY No. 506: COLORADO.

(*c*) Brief preliminary remarks deemed necessary by the Forest Service, as to applicant for listing and date and number of his application, etc., followed by reference to your special instructions by date, homestead entry survey number, position of claim by section, township, and range, and whether on surveyed

or unsurveyed lands, with name of national forest and the statutory authority, namely, the acts of June 11, 1906, August 10, 1912, and March 4, 1913, as the case may be.

(*d*) Commencing date of survey, and establishment of meridian of reference, with full data and results, as hereinbefore specified.

(*e*) Record of retracements, resurveys, and restorations of specific lines and corners, with dates.

(*f*) Temporary locating of required boundaries of legal subdivisions, with dates.

(*g*) These preliminaries being recorded, then will follow the field notes proper of the claim, commencing with corner No. 1, its full description, witnesses, bearing trees and objects, and connections. Record the magnetic declination at this point, measured from the true meridian, time of day to be stated, and the resulting mean declination deduced by aid of a brief table of diurnal variations for your district, which you will furnish, prepared from values tabulated in the Manual of 1894. Thence proceed with courses in consecutive order from corner to corner, around the entire tract, to the place of beginning. If a corner or boundary of the tract is identical with a corner of or on a line of another survey, or section line, or boundary of a legal subdivision, that fact should be stated. Descriptions of corners established and corners referred to or used; connecting lines; full details of triangulation, offsets, and traverses and results; chainage to topography on line; bearings and distances to improvements and other objects; intersections with prior surveys and conflicts therewith—these will be recorded in order in their proper places as the survey progresses from corner to corner. The date of each day's work will appear.

(*h*) Areas in acres (to two decimal places) of conflicts if any, portions in each section, and total area.

(*i*) List and descriptions of improvements, with approximate values.

(*k*) Description of the tract in respect of the character of the land, timber, water, use, and value for various purposes. Mineral or nonmineral character to have specific mention.

(*l*) Proximity of the tract to other like tracts, settlements, mining camps, centers of trade, townsites, and to officially surveyed mining or other claims and others not so surveyed but well known.

(*m*) Such other matters relative to the claim and its surroundings as are deemed proper and necessary to a complete report. Then will follow the concluding date of survey and the official signature of the surveyor.

(*n*) Traverses showing closing errors.

(*o*) Final affidavit of assistants, to be made before an officer qualified to administer oaths, or if one is not available, that fact will be stated and the affidavit made before the surveyor in his official capacity.

(*p*) Final affidavit of the surveyor, to be taken before an officer qualified to administer oaths and having a seal. The affidavit should have substantially the following form:

I, John T. Monroe, (here state official designation), do solemnly swear that, in strict conformity with the special instructions of the United States surveyor general for Colorado, dated August 15, 1910, and the laws of the United States, I have well, faithfully, and truly, in my own proper person, surveyed a tract of land upon the application of James Brasher, No. 704, dated June 27, 1910, for listing under the act of June 11, 1906, the same to be known as Homestead Entry Survey No. 506, situated within the Battlement National Forest, in unsurveyed section 30, Township 11 South, Range 93 West, and surveyed section 25, Township 11 South, Range 94 West of the Sixth Principal Meridian, Colorado, and the related retracements and resurveys and section subdivisions, which are represented in the foregoing field notes as having been surveyed by me; and I further solemnly swear that all the corners of said survey have been established and perpetuated in strict accordance with the stated special instructions, and in the specific manner described in the field notes, and that the foregoing are the original field notes of such survey.

It is noted that the form of certificate of assistants, final oath of surveyor, and your approval, Form 4–679, may be followed, slightly modified, for these surveys.

36. Plats will be prepared on drawing paper at least equal in weight and quality to that in current use for plats of mineral surveys, on sheets of the size and with border prescribed for regular

township plats, and to a suitably large scale in each case. The title may be brief and substantially as follows, for instance:

Plat of
Homestead Entry Survey No. 506
in the
Battlement National Forest
in
Section 30 (unsurveyed) T. 11 S., R. 93 W.
and
Section 25 (surveyed) T. 11 S., R. 94 W.
of the
Sixth Principal Meridian
COLORADO.

37. In addition to the entry survey in detail, with its associated retracements and resurveys designated as such, section subdivisions, and connections, all " strictly conformable " to the field notes, the plat will also indicate near-by surveys, claims, and important topography.

38. If in a surveyed section, section subdivisions should be shown on the plat to an extent sufficient to indicate remainders of legal subdivisions invaded by the entry survey, but without areas and without lot numbers other than those already appearing on the plat of regular survey. After the entry has passed to patent, its survey and segregations created thereby will be shown with other patented areas on township plats subsequently prepared; and in these cases small portions of legal subdivisions consequent on segregations of patented mineral claims, that may be included in adjacent lots created by the entry survey, should be included if the resulting lot is of proper form and area. (See p. 74 of Manual of 1902.)

39. The status of surveys and protractions should be definitely stated on the plat; for instance, as patented, accepted, suspended, surveyed, unapproved, etc., as the case may be.

40. On the plat unsurveyed section lines will be indicated by broken lines, if their positions can be protracted with reasonable certainty. Surveyed section lines will be full, with courses and distances as of record, retraced, or restored. Mineral and other surveys may be shown in full lines, with corner numbers when advisable. Unsurveyed mineral or other claims, also section subdivision lines, will be dotted. The entry survey boundaries will be full and relatively heavier.

Lines should be appropriate in character and lettering simple in style and distinctive in size and form for the matters represented, that the plat may be correctly and easily read. Single-stroke letters and figures, not shaded, are preferred, to the exclusion of vertical and Roman forms.

41. In tabular form, as on regular township plats, there will be stated the prior and entry surveys, executing deputy or other surveyors, contracts, group numbers, and special instructions with dates, dates of surveys and of approvals. Also in tabular form, there will be stated the areas of conflicts, portions in each section, and total area. Following these tables will be stated the list by number and date when known, and the latitude, longitude, and mean magnetic declination of and at some point of the survey, preferably at corner No. 1.

Within the outlines of the survey will appear, for instance, H. E. S. No. 506, with total area.

42. Your certificate to the plat will have the following general form, for instance:

This plat of Homestead Entry Survey No. 506, situated in section 30 (unsurveyed) in Township 11 South, of Range 93 West, and section 25 (surveyed) in Township 11 South, of Range 94 West of the Sixth Principal Meridian, Colorado, is strictly conformable to the field notes of the survey thereof on file in this office, which have been examined and approved.

43. Cooperative procedure of your office and that of the District Forester will be substantially as follows:

That officer will forward to you a list of surveyors of the Forest Service, accredited as trustworthy and competent for surveys of the character above described, to whom, if you find no objection, you will issue special instructions.

44. Upon receipt from the district forester of a request for instructions for the survey of a given tract by metes and bounds, under the stated act of June 11, 1906, you will ascertain from the local land office the reservations, and the entries, agricultural, mineral, etc., whose boundaries may have to be recognized or respected. You will also carefully consult the records of your office. With his request for instructions the district forester will, in his discretion, transmit two copies of a preliminary plat and field notes of the tract, together with any other facts or information which he may be able to furnish, which will be of service in preparing the instructions.

45. From information thus assembled, you will prepare special instructions for the entry survey, assigning thereto the succeeding number in your series of entry surveys, or if the series is not started, commence with No. 37. A number once assigned will not be used in connection with another tract or another application for the same tract. The instructions will be addressed to the accredited surveyor designated by the district forester, or if not designated at the time, the place for the name of the accredited surveyor will be left blank, the same to be filled in by the district forester in due course and your office advised.

The instructions will be accompanied by a diagram to a convenient scale, showing the assembled information, including courses, distances, etc., of prior surveys, also the approximate latitude and longitude as shown by your records, the same to be corrected by the surveyor according to the facts. Matters not conveniently representable on the diagram, as brief corner descriptions, and the conditions, status, and irregularities of prior surveys, should also be furnished to the surveyor.

46. You will refrain from instructing the surveyor in any matter strictly within the jurisdiction of the Forest Service. But it is intended that your instructions be such as are necessary, yet sufficient, in each particular case for a survey and returns in all respects acceptable at final proof.

When the surveyor may easily err, the special instructions should not consist merely of reference to or quotations from these regulations or the circular of June 1, 1909; but you will clearly set forth the details of requisite operations in the light of conditions as far as known, and, in addition, fully advise, as far as practicable, what should be done if conditions are found to be otherwise. Your instructions should be specific, sufficient, and special.

47. You will transmit two copies of the special instructions and diagram and one of the two copies of the preliminary plat and field notes, if such are furnished by the district forester, to this office by letter, in which you will state the information assembled and discuss the special instructions in their relation to conditions presented.

Records will be consulted, the instructions examined, and one copy thereof returned to your office as promptly as possible. You will then transmit the instructions as approved to the district forester, with the request that he cause the survey to be made in strict conformity therewith, and in due course transmit to your office the requisite returns in prescribed form complete for your official action. The returns will consist of original field notes, two transcripts thereof, and plat in quadruplicate, with the associated papers already mentioned.

48. It is expected that, in the majority of cases, there will be no complications or conditions not sufficiently covered by this circular. For such surveys your instructions should be brief and formal. In many other instances the strictly special features will be quite simple. Judiciously select these two classes, and transmit to the district forester the instructions and information therefor, without prior submission to this office; but transmit a copy in each case for filing, and in your letter state your action under this section.

49. As returns are to be prepared by the Forest Service under your direction, it will be of manifest advantage in the cooperation, and it is so suggested, that the district forester, after an entry survey is checked in his office for limits of closing and statutory area and length, submit to you a preliminary draft of field notes and preliminary diagram, sufficiently indicating contemplated forms of returns. These you will at once critically examine, indicate needed changes in survey, field notes, and plat, and return promptly to that officer, retaining a sufficient copy for convenience in examining returns. Your consideration of the draft and diagram is expected to be complete, that survey and returns may not need further change.

50. When received from the district forester, as above, the returns will be considered in the usual order of business in your office, unless otherwise directed by this office, and when found to be satisfactory, will be officially approved and certified by you as usual.

51. The original plat and field notes will remain in your files. The duplicate plat and one transcript of field notes will be transmitted to this office; they will be deemed to be the plat and field notes prescribed in the stated act of 1906 to be filed by the entryman. Upon advice of this office, you will transmit the triplicate plat and one transcript to the proper local land office for its files. At the same time you will transmit the quadruplicate plat to the local land office, to be supplied to the entryman when he applies to make final proof, for posting on the claim as required by the act of 1906; this purpose will be stated in your letter of transmittal.

When the triplicate plat is transmitted, you will notify the district forester thereof.

52. With your letter transmitting transcript field notes and duplicate plat, you will inclose copies of any supplemental instructions you may have issued. And when such instructions are requested by the district forester, concerning which you are in doubt, you will submit to this office a full statement of conditions affecting the question presented, and await advice.

53. The cooperative procedure above instructed has relation only to listing surveys intended as bases for individual entries. It does not apply to surveys for listings of larger metes-and-bounds tracts or tracts involving the extension of the regular system.

54. By the stated act of March 4, 1913, the unexpended balance of the appropriation of $35,000, for the current fiscal year, and a similar appropriation for the ensuing fiscal year, will be available also for surveys of lands *already listed* within national forests.

In respect of such listings and entries based thereon, your attention is directed to section 25 hereof and the construction therein stated of the statutory 1-mile limit. All instructions of this office inconsistent therewith are hereby recalled.

55. After June 30, 1913, such surveys by metes and bounds—that is, lands already listed—as are intended for use at final proof under the act of 1906, will be made by employees of the Forest Service under your direction and these regulations. This rule applies also to metes-and-bounds entries of lands which, since entry, are exempted from national forests, where the entryman is not, within the statutory final-proof period, allowed to amend his entry to conform to the usual legal subdivisions.

Surveys amendatory of existing listings, intended as bases for individual entries, including those to be bases for allowable amendments of entries already made, are sufficiently covered by preceding sections.

Surveys for final proof on entries based or to be based on listings not made under the cooperation plan of the acts of 1912 and 1913 will be subject to the following additional regulations; namely, such surveys can embrace only listed and opened lands. They must therefore be restricted to or within the boundaries of such lands as marked on the ground, or if not marked, to or within the boundaries intended by the Forest Service in the listing. That this restriction is observed, and how, should specifically appear in the field notes, with identifying descriptions of listing corners as found, and bearings and distances thereto when, for proper reasons, their positions are not occupied by entry survey corners. The listing corners have served their legitimate purpose when the tract is identified, and should be destroyed after positions are noted, the facts being recorded in the field notes.

The fact of entry will not require change in forms prescribed in section 35c, *supra*, of field notes, plats, affidavits, and approval; but the fact should be briefly mentioned in the preamble of the field notes, with name of entryman, local land office, serial, and date.

56. Applications from entrymen for metes-and-bounds surveys of their entries, received at your office subsequent to June 30, 1913, will be treated substantially in like manner as requests for instructions from the district forester. In addition, however, to other relative information from the local land office (sec. 44), you will obtain details of listings and entries required in preparing special instructions in each case. Duplicate field notes and plats of most of the listing surveys already made are on file in this office, and will be transmitted on your request.

Of the provisions of the stated act of 1913 you will advise entrymen for whom surveys have been authorized by this office but instructions not issued by your office, also applicants in the case of

entry-survey applications now pending in your office or filed therein prior to July 1, 1913, and allow them to modify their applications, if they so desire, to request that the surveys be made by the Forest Service under these regulations, and upon such requests you will proceed as on applications submitted after June 30, 1913. Unexpended balances of deposits for office work will be returned to depositors upon application and your usual accounting.

57. Although the status of entered lands is different from that of lands to be listed under the cooperative plan, matters requiring your careful attention are not materially different, as surveys in each case must be sufficient for final proof. Therefore, reposing confidence in your judicious selection, you will proceed in these surveys also, as directed in sections 47 and 48 in respect of transmitting and submitting special instructions.

58. The preparation of returns being provided for as stated, the necessary office work in your office, connected with surveys under these regulations, will be performed by your regular clerical force without expense to entrymen.

59. A survey embracing lands proper to be entered and patented, to the exclusion of other lands, a sufficiently substantial and distinctive marking on the ground, and a concise but complete and correct record are required. These regulations are designed to embrace all requirements necessary and sufficient thereto. It is to be expected that details not specifically prescribed herein will vary, but unless obviously discordant therewith, they should not in general be regarded by you as necessarily subject to change (see sec. 49), or as a bar to your approval, thereby needlessly introducing delays and complicating procedure.

60. It is desired and expected that you will cordially cooperate with the district forester, and promptly acknowledge and respond to his proper requests for instructions and information, that he be not embarrassed in his field assignments or office work.

61. The first letter received from your office relative to an entry survey will be assigned a number by this office, which will also be assigned to all succeeding correspondence on the same subject. In reporting action, please state the authorizing letter. When mentioning a letter of this office, also state the date of your letter, if any, to which the office letter is reply; this is desired for convenient office reference, copies of replies to your letters being filed therewith.

Very respectfully,

FRED DENNETT, *Commissioner.*

Approved:

LEWIS C. LAYLIN, *Assistant Secretary.*

O

WASHINGTON : GOVERNMENT PRINTING OFFICE : 1913

In reply please refer to Circular No. 237.

MAY 23 1913

"FS" 13-328503--JDY.

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

May 13, 1913.

: Instructions re circular
: October 25, 1886.

Registers and Receivers,

United States Land Offices.

Sirs:

My attention has been called to the fact that the circular of October 25, 1886 (5 L. D., 198-199), is not being followed in all its provisions. Your particular attention is called to that paragraph which reads as follows:

> "In connection with the above you are directed to hereafter note upon the paper itself in case of every filing, declaration, or application (where the same is not executed before you and presented by the applicant in person) the name of the party by whom the same was presented or transmitted."

You will hereafter strictly follow this direction.

Respectfully,

Fred Dennett

Commissioner.

5-12-RCL.

In reply please refer to Circular No. 238. MAY 23 1913

"M" EHC

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

May 16, 1913.

ACCOUNTS: Trust funds--unearned moneys on hand June 30, 1913.

Registers and Receivers,
United States Land Offices.

Sirs:

You are hereby directed to submit with your accounts for the quarter ending June 30, 1913, or as soon thereafter as practicable, an itemized list, in triplicate, of trust funds--unearned moneys prepared on new form 4-103 showing date of deposit, number of receipt, serial number, name of depositor, purpose of deposit, and amount. The total amount thereof should agree with the total amount of trust funds--unearned moneys on hand June 30, 1913, as shown in your quarterly account current.

In order to avoid unnecessary correspondence and corrections in said list, you will upon receipt of these instructions, proceed to carefully examine your records with a view of discovering any discrepancies, so that the list furnished may be correct in every particular before transmittal.

You are further directed to deposit to the credit of the Treasurer of the United States on account of "outstanding liabilities" all moneys that have remained unclaimed for a period of five years or more, as required by the act of March 2, 1907 (34 Stat., 1245). Reference is had to Circular No. 105, paragraph 170.

Please acknowledge receipt hereof by return mail.

Very respectfully,

Fred Dennett

5-14-IVG

Commissioner.

In reply please refer to Circular No. 239.

JUN 7 1913

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

May 28, 1913.

Vacating Paragraphs
20, 21 and 25 of the
Coal-land Regulations.

Registers and Receivers,

United States Land Offices.

Sirs:

You will be governed by the following instructions, issued May 23, 1913, by the Department, in a communication addressed to this office, viz:

Paragraphs 20, 21, and 25 of the coal-land regulations of April 12, 1907 (35 L. D., 665), are hereby vacated, for the reason that the provisions thereof have been superseded and are covered by other regulations. The provisions of paragaph 20, as to examination of proofs and time of payment, have been displaced and are covered by the requiremets of paragraph 18, as ameded November 30, 1907 (36 L. D., 192), and as further amended January 10, 1913 (41 L. D., 417). The provisions of paragraphs 21 and 25, as to the issuance of receipt and the manner of making returns to the General Land Offce, are covered by circular 105 of May 4, 1912, while the provision of paragraph 21, as to the lelivery of patents, is covered by the general circular of January 25, 1904 (pages 85 and 86).

Very respectfully,

A. C. Townsley

Assistant Commissioner.

5-28-13 McC

In reply please refer to Circular No. 240.

JUN 16 1913

"C" RAS

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

June 3, 1913.

Report as to unappropriated lands called for.

Registers and Receivers,
United States Land Offices.

Gentlemen:

I inclose herewith a blank form (4-349) upon which you will report as herein directed the status of the unappropriated lands in your district on July 1, ~~1912~~ 1913, which you will obtain from the township plats, so far as the surveyed lands are concerned, as this office desires as accurate reports as is possible from the records of your office. As to the unsurveyed lands, you will proceed as in the past.

In the first column thereof you will give the names of the counties in or partly in your district containing public lands, OMITTING ALL COUNTIES IN WHICH THERE ARE NO UNAPPROPRIATED LANDS. The area of all lands in your district subject to settlement, entry or filing (which is to be understood as lands not included in a PERMANENT reservation for forestry, Indian or national park purposes) will be reported in the second, third, and fourth columns; those surveyed in the second; those unsurveyed in the third; and the aggregate surveyed and unsurveyed in the fourth.

The statement in the fifth column, as to the character of the vacant lands, should be as brief as practicable and may frequently be made in one or two words, as "Mountainous," "Broken," "Swampy," "Grazing lands," etc.

Should it appear that there has been an increase in the area of lands subject to entry or settlement in any county, you will explain what caused the same.

You will forward your report by special letter not later than July 10, even though it be necessary for you to suspend the greater part of the other work in your office while making same.

In making your report you will state that the data contained therein was obtained from the township plats and that all land in a permanent state of reservation has been excluded therefrom.

Acknowledge receipt hereof.

Very respectfully,

S. V. Proudfit

Assistant Commissioner.

Report made July 7/1913

In reply please refer to Circular No. 240.

"GS" 240

In reply please refer to Circular No. 241.

"M" CTMC 1 Inc.

JUN 16 1913

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

June 6, 1913.

ACCOUNTS AND RETURNS: Annual Report.

Registers and Receivers,

United States Land Offices.

Sirs:

By letter of May 28 the Department has directed that the annual report of the operations of the General Land Office for the fiscal year ending June 30, 1913, be submitted to the Department at the earliest practical date, and not later than September 1, 1913.

You are directed to submit your returns and accounts promptly at the close of business on June 30, 1913, in order that the statistical records of this office may be tabulated and compiled prior to August 15, 1913, the date upon which I wish to have the office report in my possession.

Please acknowledge these instructions on the inclosed post card.

Very respectfully,

Fred Dennett

Commissioner.

6-5-BK

413

In reply please refer to Circular No. 441.

"M" 01MO 1 Inc.

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

June 6, 1913.

ACCOUNTS AND RETURNS: Annual Report.

Registers and Receivers,

United States Land Offices.

Sirs:

By letter of May 20 the Department has directed that the annual report of the operations of the General Land Office for the fiscal year ending June 30, 1913, be submitted to the Department at the earliest practical date, and not later than September 1, 1913.

You are directed to submit your returns and accounts promptly at the close of business on June 30, 1913, in order that the statistical records of this office may be tabulated and compiled prior to August 15, 1913, the date upon which I wish to have the office report in my possession.

Please acknowledge these instructions on the inclosed post card.

Very respectfully,

Commissioner.

MAY 29 1915

Circular No. 242

INSTRUCTIONS RELATIVE TO QUESTION 15, CLAIMANT'S PROOF TESTIMONY.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, June 17, 1913.

REGISTERS AND RECEIVERS,
United States Land Offices.

SIRS: Your attention is called to the fact that in the examination of a large number of homestead proofs it is observed that while Question 11 of claimant's proof testimony is answered, no response is made to Question 15. These questions are entirely different in their meaning and both should be properly answered. The former relates to "any other homestead entry" made prior to existing entry, while the latter relates to "any other entry or filing (not mineral) made * * * since August 30, 1890."

Advise all proof-taking officers within the limits of your respective land districts of the above, and hereafter see that Question 15 is properly answered.

Acknowledge receipt hereof.

Very respectfully,

S. V. PROUDFIT,
Assistant Commissioner.

BOARD OF LAW REVIEW,
By D. K. PARROTT.

98801—13

639

WASHINGTON : GOVERNMENT PRINTING OFFICE : 1913

CIRCULAR No. 246.

RELATIVE TO APPROXIMATION IN APPLICATIONS UNDER SECTIONS 2306 AND 2307, REVISED STATUTES.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., July 2, 1913.

Registers and Receivers, United States Land Offices.

GENTLEMEN: March 8, 1913, the department, upon motions for rehearing of departmental decision dated November 23, 1912 (41 L. D., 487), in the case of Ernest P. Spaeth, Sundance 05045, holding that "hereafter no approximation will be allowed in the matter of the location of soldiers' additional rights," and recalling and vacating the rule announced in the case of George E. Lemmon (37 L. D., 28), stated, after denying said motions, that—

> It will be noted that in this case the claim is based upon assignment of two separate additional rights; that is, it is a consolidated entry, and under those conditions it is believed that no unreasonable hardship was imposed in requiring the locator to furnish additional right or rights sufficient in area, with that heretofore given, to equal the tract selected.
>
> It is not intended hereby to hold that, in the location of a single additional right, where the area of the tract located is but a fraction greater than the right proffered, the same may not be passed under the general rule respecting disposition of such tracts under other laws. Neither is it intended to recognize a practice wherein the additional right is sought to be used in a manner to acquire practically twice its area, as, for instance, where the location is made of a 40-acre tract upon a right calling for but 20 acres and a fraction of an acre.

It will be observed that under said decision no approximation will be allowed where combined soldiers' additional rights are used, and that areas of the rights in such cases must equal the area of the land applied for. But where a single additional right is involved an application will be permitted where the area of the tract located is but a fraction greater than the right proffered.

Circular No. 211, approved March 8, 1913, is accordingly modified, and you will be guided by the ruling above set forth.

Very respectfully,

CLAY TALLMAN,
Commissioner.

Approved:
A. A. JONES,
First Assistant Secretary.

2111—13

JUL 28 1913

In reply please refer to Circular No. 251.
"A" JWD

DEPARTMENT OF THE INTERIOR
General Land Office
Washington

July 15, 1913.

: Calling for reports as to em-
: ployment of wives and hus-
: bands of employees in other
: branches of the service.

U. S. Surveyors General,
Registers and Receivers,
Chiefs of Field Divisions,
and Supervisors of Surveys.

Gentlemen:

You are instructed to forward at once a statement showing the names, location, designations and salaries of the employees in your respective offices and divisions whose wives or husbands are also employed in this or any other Department of the Government, giving in each instance the same information in regard to the latter positions as required in the first mentioned.

Chiefs of Field Divisions and the Supervisors of Surveys will include themselves in the report.

Immediate attention to this matter is directed.

Very respectfully,

C. M. BRUCE,

Assistant Commissioner.

WSH.

Ans. July 29, 1913,

Revised by Circ. 371

CIRCULAR No. 253.

ISOLATED TRACTS—SEC. 2455, R. S., AS AMENDED BY ACT OF MARCH 28, 1912 (37 STAT., 77).

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., July 17, 1913.

Registers and Receivers, United States land offices.

SIRS: The sale of isolated tracts of public lands outside of the area in the State of Nebraska described in the act of March 2, 1907 (34 Stat., 1224), is authorized by the provisions of the act of March 28, 1912 (37 Stat., 77), amending section 2455 of the Revised Statutes.

GENERAL REGULATIONS.

1. Applications to have isolated tracts ordered into market must be filed with the register and receiver of the local land office in the district wherein the lands are situated.

2. Applicants must show by their affidavits, corroborated by at least two witnesses, that the land contains no salines, coal, or other minerals; the amount, kind, and value of timber or stone thereon, if any; whether the land is occupied, and if so, the nature of the occupancy; for what purpose the land is chiefly valuable; why it is desired that same be sold; that applicant desires to purchase the land for his own individual use and actual occupation and not for speculative purposes, and that he has not heretofore purchased under section 2455, Revised Statutes, or the amendments thereto, isolated tracts the area of which, when added to the area now applied for, will exceed approximately 160 acres; and that he is a citizen of the United States. If applicant has heretofore purchased lands under the provisions of the acts relating to isolated tracts, same must be described in the application by subdivision, section, township, and range.

3. The affidavits of applicants to have isolated tracts ordered into market and of their corroborating witnesses may be executed before any officer having a seal and authorized to administer oaths in the county or land district in which the tracts described in the applications are situated.

4. The officer before whom such affidavits are executed will cause each applicant and his witnesses to fully answer the questions contained upon the accompanying form and, after the answers to the questions therein contained have been reduced to writing, to sign and swear to same before him.

5. No sale will be authorized upon the application of a person who has purchased under section 2455, Revised Statutes, or the amend-

ments thereto, any lands the area of which, when added to the area applied for, shall exceed approximately 160 acres.

6. Only one tract may be included in an application for sale, and no tract exceeding approximately 160 acres in area will be ordered into the market.

7. No tract of land will be deemed isolated and ordered into the market unless, at the time application is filed, the said tract has been subject to homestead entry for at least two years after the surrounding lands have been entered, filed upon, or sold by the Government, except in cases where some extraordinary reason is advanced sufficient, in the opinion of the Commissioner of the General Land Office, to warrant waiving this restriction.

8. The local officers will on receipt of applications note same upon the tract books of their office, and if the applications are not properly executed or not corroborated they will reject the same, subject to the right of appeal. Applications found to be properly executed and corroborated will be disposed of as follows: (*a*) If all or any portion of the land applied for is not subject to disposition under the provisions of paragraph 7 or by reason of some prior appropriation of the land, the application will be forwarded to the General Land Office with the monthly returns, accompanied by a report as to the status of the land applied for and the surrounding lands and any other objection to the offering known to the local officers. Upon determining what portion, if any, of the lands applied for should be ordered into the market the Commissioner of the General Land Office will call upon the local officers and the chief of field division for the report, as next provided for, concerning the value of the land. (*b*) If all of the land applied for is vacant and not withdrawn or otherwise reserved from such disposition and the status of the surrounding lands is such that a sale might properly be ordered under paragraph 7, the local officers, after noting the application on their records, will promptly forward the same to the chief of field division for report as to the value of the land and any objection he may wish to interpose to the sale, and the register will make proper notations on his schedule of serial numbers in the event the application is not returned in time to be forwarded with the returns for the month in which it is filed. Upon receipt of the application from the chief of field division with his report thereon the local officers will attach their report as to the status of the land and that surrounding, the value of the land applied for, if they have any knowledge concerning the same, and any objection to the sale known to them, and forward the papers to the General Land Office with the returns for the current month.

9. An application for sale under these instructions will not segregate the land from entry or other disposal, for such lands may be entered at any time prior to the receipt in the local land office of the letter authorizing the sale and its notation of record. Should all of the land applied for be entered or filed upon while the application for sale is in the hands of the chief of field division, the local officers will so advise him and request the return of the application for forwarding to the General Land Office. Likewise, should any or all of the land be entered or filed upon while the application for sale

is pending before the General Land Office, the local officers will so report by special letter.

10. Upon receipt of letter authorizing the sale the local officers will at once examine the records to see whether the tract, or any part thereof, has been entered. If the examination of the record shows that all of the tract has been entered or filed upon, the local officers will not promulgate the letter authorizing the sale, but will report the facts to the General Land Office, whereupon the letter authorizing the sale will be revoked. If a part of the land has been entered, they will so report and note on the tract book, opposite such portion of the tract as is found to be clear, that sale has been authorized, giving the date of the letter. Thereupon the land will be considered segregated for the purpose of sale. The minimum price set by the order for sale should also be noted on the records. In the event no sale is had the price so noted will be effective, as provided by Circular No. 212, dated March 11, 1913.

The local officers will prepare a notice for publication on the form hereinafter given, describing the land found to be unentered, and fixing a date for the sale, which date must be far enough in advance to afford ample time for publication of the notice, and for the affidavit of the publisher to be filed in the local land office prior to the date of the sale. The register will also designate a newspaper as published nearest to the land described in the notice. The notice will be sent to the applicant with instructions that he must publish the same at his expense in the newspaper designated by the register. Payment for publication must be made by applicant directly to the publisher, and in case the money for publication is transmitted to the receiver, he must issue receipt therefor, and immediately return the money to the applicant by his official check, with instructions to arrange for the publication of the notice as hereinbefore provided.

If on the day set for the sale the affidavit of the publisher, showing proper publication, has not been filed in the local land office, the register and receiver will report that fact to this office, and will not proceed with the sale.

11. Notice must be published once a week for 5 consecutive weeks (or 30 consecutive days, if in a daily paper) immediately prior to the date of sale, but a sufficient time should elapse between the date of last publication and date of sale to enable the affidavit of the publisher to be filed in the local land office. The notice must be published in the paper designated by the register as nearest the land described in the application. The register and receiver will cause a similar notice to be posted in the local land office, such notice to remain posted during the entire period of publication. The publisher of the newspaper must file in the local land office, prior to the date fixed for the sale, evidence that publication has been had for the required period, which evidence may consist of the affidavit of the publisher, accompanied by a copy of the notice published.

12. At the time and place fixed for the sale the register or receiver will read the notice of sale and allow all qualified persons an opportunity to bid. Bids may be made through an agent personally present at the sale, as well as by the bidder in person. The register or receiver conducting the sale will keep a record showing the names

of the bidders and the amount bid by each. Such record will be transmitted to this office with the other papers in the case.

The sale will be kept open for one hour after the time mentioned in the published notice. At the expiration of the hour, and after all bids have been offered, the local officers will declare the sale closed, and announce the name of the highest bidder, who will be declared the purchaser, and he must immediately deposit the amount bid by him with the receiver, and within 10 days thereafter furnish evidence of citizenship, nonmineral and nonsaline affidavit, Form 4–062, or nonsaline affidavit, Form 4–062a, as the case may require. Upon receipt of the proof, and payment having been made for the lands, the local officers will issue the proper final papers.

13. No lands will be sold at less than the price fixed by law, nor at less than $1.25 per acre, but a minimum price will be set by the letter ordering the sale, based upon the report of the chief of field division. Should any of the lands offered be not sold, the same will not be regarded as subject to private entry unless located in the State of Missouri (act of Mar. 2, 1889, 25 Stats., 854), but may again be offered for sale in the manner herein provided.

14. After each offering where the lands offered are *not* sold, the local officers will report by letter to the General Land Office. No report by letter will be made when the offering results in a sale, but the local officers will issue cash papers as in ordinary cash entries, noting thereon the date of the letter authorizing the offering, and report the same in their current monthly returns. With the papers must also be forwarded the affidavit of publisher showing due publication, and the register's certificate of posting. In all cases where no sale is had the land will, in the absence of other objection, become subject to entry or filing at once, without action by this office.

ACT OF MARCH 28, 1912.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twenty-four hundred and fifty-five of the Revised Statutes of the United States be amended to read as follows:

"SEC. 2455. It shall be lawful for the Commissioner of the General Land Office to order into market and sell at public auction, at the land office of the district in which the land is situated, for not less than one dollar and twenty-five cents an acre, any isolated or disconnected tract or parcel of the public domain not exceeding one-quarter section which, in his judgment, it would be proper to expose for sale after at least thirty days' notice by the land officers of the district in which such land may be situated: *Provided,* That any legal subdivisions of the public land, not exceeding one-quarter section, the greater part of which is mountainous or too rough for cultivation, may, in the discretion of said commissioner, be ordered into the market and sold pursuant to this act upon the application of any person who owns lands or holds a valid entry of lands adjoining such tract, regardless of the fact that such tract may not be isolated or disconnected within the meaning of this act: *Provided further,* That this act shall not defeat any vested right which has already attached under any pending entry or location."

Approved, March 28, 1912.

REGULATIONS UNDER FIRST PROVISO TO ACT OF MARCH 28, 1912.

The first proviso to the act of March 28, 1912, authorizes the sale of legal subdivisions not exceeding one-quarter section, the greater part of which is mountainous or too rough for cultivation, upon the

application of any person who owns or holds a valid entry of lands adjoining such tract and regardless of the fact that such tract may not be actually isolated by the entry or other disposition of surrounding lands. It is left entirely to the discretion of the Commissioner of the General Land Office to determine whether a tract shall be sold, and it will not be practicable to prescribe a set of rules governing the conditions which would render a tract susceptible to sale under the proviso. Applications will be disposed of by you in accordance with the "General Regulations," except paragraph 7, which is not applicable. Applications may be made upon the form provided (4–008b) and printed herein, properly modified as necessitated by the terms of the proviso. In addition the applicant or applicants must furnish proof of his or their ownership of the whole title to adjoining land, or that he holds a valid entry embracing adjoining land, in connection with which entry he has fully met the requirements of law; also detailed evidence as to the character of the land applied for, the extent to which it is cultivable, and the conditions which render the greater portion unfit for cultivation; also a description of any and all lands theretofore applied for under the proviso or purchased under section 2455 or the amendments thereto. This evidence must consist of an affidavit by the claimant, corroborated by the affidavits of not less than two disinterested persons having actual knowledge of the facts.

No sale will be authorized under the proviso upon the application of a person who has procured one offering thereunder except upon a showing of strong necessity therefor owing to some peculiar condition which prevented original application for the full area allowed to be sold at one time—160 acres. And in no event will an application be entertained where the applicant has purchased under section 2455, or the amendments thereto, an area which, when added to the area applied for, shall exceed approximately 160 acres.

In the notices for publication and posting, where sale is authorized under the proviso, you will add after the description of the land, "This tract is ordered into the market on a showing that the greater portion thereof is mountainous or too rough for cultivation."

ISOLATED TRACTS OF COAL LAND.

The act of Congress approved April 30, 1912 (37 Stat., 105), provides:

> That * * * unreserved public lands of the United States, exclusive of Alaska, which have been withdrawn or classified as coal lands, or are valuable for coal, shall * * * be subject * * * to disposition * * * under the laws providing for the sale of isolated or disconnected tracts of public lands, but there shall be a reservation to the United States of the coal in all such lands so * * * sold, and of the right to prospect for, mine, and remove the same in accordance with the provisions of the act of June twenty-second, nineteen hundred and ten, and such lands shall be subject to all the conditions and limitations of said act.

In administering this act the foregoing regulations should be followed, in so far as they are applicable, and these additional instructions are prescribed:

An application to have coal land offered at public sale must bear on its face the notation provided by paragraph 7 (*a*) of the circular

of September 8, 1910 (39 L. D., 179); in the printed and posted notice of sale will appear the statement:

This land will be sold in accordance with, and subject to, the provisions and reservations of the act of June 22, 1910 (36 Stat., 583).

The purchaser's consent to the reservation of the coal in the land to the United States will not be required, but the cash certificate and patent will contain respectively the provisions specified in paragraph 7(*b*) of said circular of September 8, 1910.

In cases where offerings have been had, and sales made, of lands coming within the purview of the act of April 30, 1912, the purchasers may furnish their consent to receive patents containing the limitation provided by said paragraph 7(*b*); and thereupon the entries may be confirmed, and patents, limited as indicated, may issue.

Very respectfully,

CLAY TALLMAN,
Commissioner.

Approved:
ANDRIEUS A. JONES,
First Assistant Secretary.

(Form 4–008b.)

APPLICATION FOR SALE OF ISOLATED OR DISCONNECTED TRACTS.

DEPARTMENT OF THE INTERIOR,
UNITED STATES LAND OFFICE,
_____,
_____, 19__.

To the COMMISSIONER OF THE GENERAL LAND OFFICE:

_____, whose post-office address is _____ respectfully requests that the _____ of section _____, township _____, range _____, be ordered into market and sold under the act of March 28, 1912 (37 Stat., 77), at public auction, the same having been subject to homestead entry for at least two years after the surrounding lands were entered, filed upon, or sold by the Government.

Applicant states that he is a _____ (insert statement that affiant is a native-born or naturalized citizen, as the case may be) citizen of the United States; that this land contains no salines, coal, or other minerals, and no stone except _____; that there is no timber thereon except _____ trees of the _____ species, ranging from _____ inches to _____ feet in diameter, and aggregating about _____ feet stumpage measure, of the estimated value of $_____; that the land is not occupied except by _____ of _____ post office, who occupies and uses it for the purpose of _____, but does not claim the right of occupancy under any of the public-land laws; that the land is chiefly valuable for _____, and that applicant desires to purchase same for his own individual use and actual occupation for the purpose of _____, and not for speculative purposes; that he has not heretofore purchased public lands sold as isolated tracts, the area of which when added to the area herein applied for will exceed approximately 160 acres. The lands heretofore purchased by him under said act are described as follows: _____

If this request is granted applicant agrees to have notice published at his expense in the newspaper designated by the register.

(Applicant will answer fully the following questions:)

Question 1. Are you the owner of land adjoining the tract above described? If so, describe the land by section, township, and range.

Answer. _____

Question 2. To what use do you intend to put the isolated tract above described should you purchase same?

Answer. _____

Question 3. If you are not the owner of adjoining land, do you intend to reside upon or cultivate the isolated tract?

Answer. _____

Question 4. Have you been requested by anyone to apply for the ordering of the tract into market? If so, by whom?

Answer_____

Question 5. Are you acting as agent for any person or persons or directly or indirectly for or in behalf of any person other than yourself in making said application?

Answer_____

Question 6. Do you intend to appear at the sale of said tract if ordered, and bid for same?

Answer_____

Question 7. Have you any agreement or understanding, expressed or implied, with any other person or persons that you are to bid upon or purchase the land for them or in their behalf, or have you agreed to absent yourself from the sale or refrain from bidding so that they may acquire title to the land?

Answer_____

_____
(Sign here with full Christian name.)

We are personally acquainted with the above-named applicant and the land described by him, and the statements hereinbefore made are true to the best of our knowledge and belief.

_____
(Sign here with full Christian name.)

_____.
(Sign here with full Christian name.)

I certify that the foregoing application and corroborative statement were read to or by the above-named applicant and witnesses, in my presence, before affiants affixed their signatures thereto; that affiants are to me personally known (or have been satisfactorily identified before me by_____); that I verily believe affiants to be credible persons and the identical persons hereinbefore described; that said affidavits were duly subscribed and sworn to before me, at my office, at _____, this _____ day of _____, 19__.

_____,
_____
(Official designation of officer.)

(Forms 4–348c and 4–348d.)

NOTICE FOR PUBLICATION—ISOLATED TRACT—PUBLIC LAND SALE.

DEPARTMENT OF THE INTERIOR,
UNITED STATES LAND OFFICE,

_____,
_____, 19__.

Notice is hereby given that, as directed by the Commissioner of the General Land Office, under the provisions of the act of Congress approved March 28, 1912 (37 Stat., 77), pursuant to the application of _____, Serial No. _____, we will offer at public sale, to the highest bidder, but at not less than $_____ per acre, at _____ o'clock __ m., on the _____ day of _____ next, at this office, the following tract of land:_____

Any persons claiming adversely the above-described land are advised to file their claims or objections on or before the time designated for sale.

_____,
Register.

_____,
Receiver.

[Cir. 253.]

WASHINGTON : GOVERNMENT PRINTING OFFICE : 1913

In reply please refer to Circular No. 255.

Inc.

DEPARTMENT OF THE INTERIOR
General Land Office
Washington

July 18, 1913.

: Relative to preparation of
: cards for Official Register
: for 1913.

United States Surveyors General,
Registers and Receivers,
Chiefs of Field Divisions,
and Supervisor of Surveys.

Sirs:

Inclosed find cards for use in the preparation of the Official Register of the Executive and Judicial Service of the United States for 1913, together with explanatory memorandum from the Director of the Census. The instructions on the back of the cards are full and definite and must be strictly observed.

A card must be prepared for each officer and employee in the service on July 1, 1913, showing title of position and compensation on that date. Cards will also be prepared for temporary employees who entered the service on or before January 1, 1913, and remained continuously therein until July 1, 1913.

You are instructed to give this matter immediate attention, and return the cards without delay.

Very respectfully,

C. M. BRUCE,

WSH.

Assistant Commissioner.

Ans. July 22, 1913.

8—3536 a

DEPARTMENT OF COMMERCE

BUREAU OF THE CENSUS

WASHINGTON

OFFICIAL REGISTER, 1913

MEMORANDUM FOR OFFICIALS SUPERVISING THE PREPARATION OF OFFICIAL REGISTER CARDS

The directions for filling in the Official Register cards, printed on the back of each card, should be carefully considered before the cards are filled out.

It is advisable that all of the cards for the clerks and employees of each division or office be filled out by a clerk familiar with the work, where practicable.

A card should be filled in by or for each clerk or employee, and, when returned, should be examined as to the correctness and legibility of the answers. If any card is incorrectly or illegibly filled in, it should be replaced by a card properly prepared.

Attention is invited to the first, and very important, instruction on the back of the card, that the typewriter should be used to fill out the card wherever possible.

The information furnished by each person should be as of date July 1, 1913. The information is required for all employees of the Government with the exception of substitute letter carriers and of *temporary* employees of all departments who entered upon their service *after* January 1, 1913. Temporary employees now in the service and appointed *before* January 1, 1913, are to be included.

No information is called for by the card except what is required by law, and each person should be instructed to give full and correct answers to all the inquiries.

After the cards have been filled in they should be securely tied together, the package labeled with the name of the office or division and the number of cards, and sent to the official from whom the blank cards were received.

DIRECTOR OF THE CENSUS.

In reply please refer to Circular No. 256.
"C" McD.

JUL 31 1913

DEPARTMENT OF THE INTERIOR
General Land Office
Washington

July 22, 1913.

: Amendment of regulations
: relative to sale of
: isolated tracts.

Registers and Receivers,

United States Land Offices.

Sirs:

Under date of July 17, 1913, the Department approved a circular (No. 253) amending the regulations concerning the sale of isolated tracts under Sec. 2455, R. S. A supply of the circular will be furnished each district office as soon as printed.

The principal changes made, WHICH ARE NOW IN FULL FORCE, will be found in paragraphs 1, 9, 10, and 14, and consist of no longer requiring a deposit by the applicant, and reserving the land from entry after the receipt at the local office, and its notation, of the letter authorizing the sale, except that should no sale be made on the date set therefor the land is subject to entry, in the absence of other objection, without any action by this office.

In all cases where this office has not authorized the sale of the land applied for, Receivers will at once return to applicants any deposit made by them.

Very respectfully,

CLAY TALLMAN,

Commissioner.

Board of Law Review,
By D. K. PARROTT.

414

Circular No. 258.

INSTRUCTIONS RELATIVE TO THE SALE OF FIRE-KILLED OR DAMAGED TIMBER ON THE PUBLIC DOMAIN, OUTSIDE OF NATIONAL FORESTS, INCLUDING UNPERFECTED CLAIMS, AS AUTHORIZED BY THE ACT OF MARCH 4, 1913, PUBLIC NO. 450.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., August 1, 1913.

To chiefs of field divisions:

SIRS: During the year 1910 destructive forest fires occurred on large areas of the public domain and valuable timber thereon was killed or permanently or seriously damaged by the fires. The Secretary of the Interior suggested the advisability of legislation authorizing disposition of such timber and the following act of Congress was approved March 4, 1913 (Public No. 450):

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized, under such rules as he may prescribe, to sell and dispose of to the highest bidder at public auction, or through sealed bids, the timber on any lands of the United States, outside the boundaries of national forests, including those embraced in unperfected claims under any of the public land laws, also upon the ceded Indian lands, that may have been killed or seriously and permanently damaged by forest fires prior to the passage of this act, the proceeds of all such sales to be covered into the Treasury of the United States: *Provided*, That the damaged timber upon any lands embraced in an existing claim shall be disposed of only upon the application or with the written consent of such claimant, and the money received from the sale of damaged timber on any such lands shall be kept in a special fund to await the final determination of such claim.

SEC. 2. That upon the certification of the Secretary of the Interior that any such claim has been finally approved and patented the Secretary of the Treasury is hereby authorized and directed to pay to such claimant, his heirs, or legal representatives, the money received from the sale of the damaged timber upon his land, after deducting therefrom the expenses of the sale; and upon the certification of the Secretary of the Interior that any such claim has been finally rejected and canceled the Secretary of the Treasury is hereby authorized and directed to transfer the money derived from the sale of the damaged timber upon the lands embraced in such claim to the general fund in the Treasury derived from the sale of public lands, unless by legislation the lands from which the timber had been removed had been theretofore appropriated to the benefit of an Indian tribe or otherwise, in which event the net proceeds derived from the sale of the timber shall be transferred to the fund of such tribe or otherwise credited or distributed as by law provided.

The act permits of the sale of all timber killed or seriously or permanently injured by forest fires that occurred *prior* to March 4, 1913, upon vacant public lands outside of national forests, including ceded Indian lands, and also upon lands embraced within unperfected or unapproved claims, grants, or selections over which the Department of the Interior has jurisdiction. It does not, however, apply to unperfected or unapproved claims, grants, or selections within the boundaries of national forests. It is applicable to all of the public land States and to the Territory of Alaska.

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Pursuant to the authority granted in the above act, the following rules and regulations are hereby prescribed for your guidance:

(1) Timber cruisers of the General Land Office, under the supervision of the chiefs of field divisions, shall at once make a reconnoissance cruise of the above-described timber, upon lands not within unperfected claims and unapproved selections and grants, in order to obtain an approximate scale of the timber to be offered for sale. They shall also blaze the outside corners of the area to be cut over or otherwise mark the outboundaries so that they may be readily distinguishable on the ground. They shall submit promptly reports thereupon:

(*a*) Describing the land to be cut over by township and range and by legal subdividions thereof, if surveyed, or by metes and bounds and by approximate legal subdivisions, if unsurveyed, and setting forth where practicable the topography of the outboundaries of the tract or tracts to be cut over with reference to mountain tops, streams, or other natural objects;

(*b*) Showing the approximate percentage of the timber on the described area which has been killed or seriously or permanently injured by forest fires prior to March 4, 1913;

(*c*) The approximate scale in thousand feet board measure of timber subject to sale;

(*d*) The approximate market value thereof per thousand feet in its present condition and location, and fixing a minimum stumpage price per thousand feet board measure for the timber to be cut; and

(*e*) The method and approximate expense of disposing of the brush, tops, lops, and other forest débris which will result from the felling and removing of the timber.

(2) After an approximate estimate of the timber to be sold and the cost of disposing of the débris has been obtained you will offer the same for sale, under sealed bids, by advertisement for a period of not less than thirty (30) days (if a daily paper, at least twice a week) next preceding the time set for the opening of the bids, in two representative newspapers of general circulation in each field division wherein the timber to be sold is situated, and if the proposed sale be for twenty million or more feet board measure of timber available by location to a single logging operation you will also cause an advertisement of the proposed sale to be inserted once in two lumber trade journals of general circulation. In order that large sales may be given all possible publicity, you will, during the period of the advertising, post copies of the advertisement where they will attract the notice of the general public.

(3) The notice of sale must announce the time and place of filing bids; the location, approximate amount in board feet and minimum stumpage value of the timber to be sold; the sum required to be deposited with the bid; the conditions by which the purchaser will be bound; and the name and address of the chief of field division, from whom full information can be obtained. It shall also be stated that bidders offering a sum based on a rate less than the minimum stumpage price of the timber mentioned therein will not be considered and that the right to reject any or all bids is reserved. The advertisement shall contain a careful description of the land to be cut over, whether surveyed or unsurveyed, designating the location with reference to water courses, mountain tops, or other well-known natural objects,

as well as by township and range and by legal subdivisions, if surveyed, or by approximate legal subdivisions, if unsurveyed.

(4) All bids submitted for the purchase of timber must be sealed and transmitted with certified check, or checks, made payable to the Commissioner of the General Land Office, as hereinafter set forth, to that chief of field division having jurisdiction of the timber sale for which the bid is submitted, and the latter will number said bids consecutively in the order in which they are received, and endorse thereon the day and the hour thereof when received, and will on the day and at the hour set therefor open said bids and award said timber, either in one lot or in separate lots, located upon definitely described areas of land, in such manner as shall afford the greatest amount of revenue therefrom, to the highest bidder or bidders. Should two or more bids in the same amount be received for the same timber, the award will be made to the bidder whose bid was first received. The chief of field division will, immediately upon the acceptance of said bid or bids, notify the bidder or bidders thereof, and shall also promptly forward a report thereupon to the Commissioner of the General Land Office. A sale may be apportioned at the highest price bid among different bidders, if desirable and practicable, to prevent monopoly. Bids submitted by parties who have trespassed upon the public domain will not be considered unless settlement has been previously made with the Government.

(5) Each bid must state whether the bidder bids for the whole of the timber offered for sale in the advertisement or for only a part thereof, and, if the latter, it should designate how much, and describe the land from which it is to be cut. Each bid must state the amount per thousand feet which the bidder will pay for the timber.

(6) Each bid shall be accompanied by a certified check for at least 20 per cent of the amount bid, said certified check to be made payable to the Commissioner of the General Land Office, and shall be retained by the chief of field division until the bond required, as hereinafter provided, shall be filed, and a contract of sale entered into, whereupon the latter shall immediately transmit to this office the certified check or checks of the successful bidder or bidders, together with the bond or bonds, and contract or contracts of sale, and said certified check or checks shall be retained by the receiving clerk of the General Land Office and be at once credited as part payment of the purchase price of the timber covered by said bid or bids. Should a bidder or bidders whose bid or bids shall have been accepted by a chief of field division fail to submit a bond or bonds, as hereinafter provided, the chief of field division will at once transmit said certified check or checks to the Commissioner of the General Land Office, and the amount or amounts called for therein will be collected and retained by the United States as a forfeit. Upon the acceptance of a bid or bids by a chief of field division the certified checks of the bidders whose bids were rejected shall be returned to them.

(7) Upon notice from a chief of field division to a bidder that his bid has been accepted, he will, within 30 days from the receipt of such notice, enter into a contract with the Government, through the chief of field division acting as its agent, and execute and file with the chief of field division a bond with proper sureties thereupon, the penalty of the bond to be of an amount which shall be 50 per cent of the stumpage value of the timber estimated in accordance with

the provisions contained in subdivision c, section 1, of this circular. Blank forms to be used in executing contracts and bonds under the act governing the sale of timber herein have been approved by the Secretary of the Interior and copies of the same will be furnished by the chief of field division. The bond shall be conditioned for the payment for said timber, and for the faithful performance of the above-referred to contract, and for the observance of the regulations hereinafter set forth. The bond will follow the exact terms of the contract in its reference to the purchaser, the description of the land and timber, and the terms of the sale. The date of the execution of the contract must appear in the bond. The chief of field division will retain the original contract and the original bond. A bond furnished by a duly qualified and authorized guaranty or bonding company shall be considered preferable, although purchasers can not be required to furnish corporate surety. The Treasury Department issues lists of surety companies authorized to act as surety on bonds to the United States. Only the surety companies on these lists, copies of which may be procured by chiefs of field divisions, may be accepted. If, however, personal sureties are procured, an affidavit and certificate of solvency will be required to show that they own real estate, subject to execution, sufficient in value after deducting the amount of all liens and encumbrances to satisfy any execution which might be issued on a judgment recovered against them for the amount of such liability as shall be incurred under any contract entered into between the bidder and the Government. The responsibility of individual sureties should be established by the signing of the "certificate of solvency," attached to the bond, by a judge or clerk of a State court of record; a judge, clerk, or deputy clerk of a United States court; a United States attorney, or one of his assistants; a United States commissioner; or a postmaster. If the purchaser is a corporation or a copartnership, sureties other than its officers, stockholders, or partners must be secured. In the event that the bidder whose bid has been accepted shall fail to submit the required bond within the specified time, the chief of field division shall cause his action in accepting said bid to be revoked by written notice to the bidder, and he shall then accept the bid received by him next in order of time should the bids be equal, otherwise the next highest bid. If the bid accepted was the only bid received, the timber will be readvertised for sale, as though no bid had been received.

(8) Immediately upon the execution of the contract and bond the chief of field division shall transmit the same, together with the certified check originally deposited, to the Commissioner of the General Land Office, who in turn will submit the same to the Secretary of the Interior for his approval or rejection, and shall at the proper time notify the chief of field division of the result of the action taken thereupon, who in turn shall notify the bidder.

(9) Immediately upon notification of the approval of a sale by the Secretary of the Interior, the chief of field division will cause an agent to go over the area from which the timber is to be cut, with the purchaser or his representative, and designate the timber subject to be cut under the act, and shall also point out the boundaries of the land as blazed or otherwise marked by the timber cruiser who made the appraisal. Cutting may then be commenced.

(10) All settlements for timber cut pursuant to this act must be based upon an actual scale made after the timber has been cut. The timber shall be scaled by a timber cruiser designated by the chief of field division, on the banking ground, landing, or skidway, and before it is placed on cars or put into the water. When the timber shall be ready for removal the purchaser shall submit a written notice thereof to the chief of field division. The scale must be made within 30 days after receipt of such notice. It will not be necessary, however, to wait until all of the timber covered by the contract has been cut before a scale shall be made. The purchaser may demand that installments of timber be scaled at such times as there may be a sufficient and reasonable amount thereof to warrant a scale. What is to be considered a reasonable amount may be determined by a previous agreement entered into between the chief of field division and the purchaser, and may be incorporated as a condition in the contract. The scale shall be made in accordance with Scribner's rules, and each log or stick scaled shall be stamped "U. S." on at least one end. The timber cruiser shall keep a record in board feet of all timber scaled and file the same with the chief of field division.

(11) No timber shall be removed until it has been paid for. Although permission may be granted for the removal of installments of timber, yet the sale is not to be considered a sale by installments, and failure on the part of the purchaser to cut and remove all of the timber covered by the terms of the sale will be considered a violation of the terms of the contract and render the obligors in the bond liable for whatever damage shall be incurred by the Government. The amount originally deposited shall be credited as an advance payment and installments of timber up to that amount may be removed without the requiring of a further deposit. When the stumpage value of an installment of timber, together with the installments previously cut, exceeds the sum originally deposited, a further deposit in a sum sufficient to equal the difference must be required before permission to remove that installment can be granted. All deposits must be made by certified check made payable to the Commissioner of the General Land Office and all checks thus deposited shall be transmitted to him at once by the chief of field division.

(12) The purchaser shall keep a record of the amount in board feet of timber cut and shall submit a monthly report to the chief of field division.

(13) All brush, tops, lops, and other forest débris, made in felling and removing the timber, shall be disposed of in such manner as shall be set forth in an agreement entered into between the purchaser and the chief of field division. If the purchaser fails to comply with the requirements contained in said agreement, then the chief of field division shall cause said débris to be disposed of and charge the expense thereof to the purchaser, provided, however, that written notice shall first be given by the chief of field division that such action will be taken if said instructions are not complied with within 30 days from the service of such notice. The aforesaid bond shall be conditioned to this requirement.

(14) Chiefs of field divisions shall see that so far as practicable all branches of the logging operations shall keep pace with each other, and the piling or burning of the brush and other débris shall not be allowed to fall behind the cutting and removing of the logs.

(15) The chief of field division shall determine the period within which all of the timber embraced within a sale shall be cut, and completion of the cutting within such period as shall be thus fixed shall be made a condition in the contract and in the bond. The action of the chief of field division should be governed by the quantity of timber to be cut, the topography of the land, the accessibility of the timber, and any other circumstances that may have an influence on the cutting. Owing to the nature of the timber subject to disposal under these rules and regulations, the cutting should be done as rapidly as possible and the final time limits should be restricted as far as practicable logging conditions will permit. Any extension of the period fixed by the chief of field division will be granted only upon a showing that the completion of the cutting was unavoidably delayed by causes over which the purchaser had no control and that the interests of the Government will not be prejudiced thereby and must be approved by the Secretary of the Interior.

(16) Timber, of the character described in the above act, located upon existing unperfected claims and upon unapproved selections and grants, may be disposed of in the same manner and under the same conditions as set forth in the preceding paragraphs, provided, however, that an application shall first be filed with the proper chief of field division by such claimant, selector, or grantee, or by a prospective purchaser, with the written consent of such claimant, selector, or grantee, requesting that the timber on said claim, selection, or grant be offered for sale. Nothing herein shall prohibit such claimant, selector, or grantee from bidding for the timber thus offered.

(17) The act of March 4, 1913, or these instructions pursuant thereto, shall not be construed to abrogate or in any way modify the rights of settlers or homestead entrymen to cut and dispose of timber on their homestead claims, as explained in circular of September 27, 1907, or the rights of miners to the enjoyment of the surface embraced within the area of their mining claims, as provided by section 2322, United States Revised Statutes.

(18) If it shall be shown that there are settlers or residents within the vicinity of the burned-over vacant lands, who are in urgent need of timber for domestic purposes and that it shall be necessary to procure the same from said lands, permits may be granted under applications filed in accordance with the provisions contained in the acts of June 3, 1878 (20 Stat., 88), or March 3, 1891 (26 Stat., 1093), as extended by the acts of July 1, 1898 (30 Stat., 618), and March 3, 1901 (31 Stat., 1439); provided, however, that said applications shall be filed prior to the advertising of the timber for sale as hereinbefore set forth. The amounts of timber thus applied for shall be deducted from the amount offered for sale and the advertisement shall state that the sale shall be subject to the rights of such applicants to procure the amounts of timber applied for.

(19) All certified checks received by chiefs of field divisions for sales of timber under this act shall be promptly transmitted to the receiving clerk of the General Land Office, together with a statement to the effect that such moneys are derived from the sale of burned timber. The receiving clerk shall immediately upon receipt of same, deposit all certified checks for collection and place the moneys derived therefrom in his special account in the United States Treasury to remain there subject to final disposition upon receipt of instruc-

tions from the Commissioner of the General Land Office, and he shall also issue his receipt to the purchaser for the amount deposited in each case.

(20) The above act specifies that the proceeds from the sale of the timber authorized therein shall be covered into the Treasury of the United States, and credited either to a general fund, that is, the fund derived from the sale of public lands, where the timber is on vacant, including ceded Indian lands, where the act of cession did not create a trust fund for the benefit of the Indians; or to a particular fund created by law as a trust fund for Indians, where the timber is on ceded Indian lands, and the act of cession provided that the proceeds from the sale of such lands shall be held as a trust fund for the benefit of the Indians; or to a special fund to be considered as a trust fund where the timber is on unperfected claims or on unapproved selections and grants. In the two last mentioned classes of sales chiefs of field divisions shall render to the Commissioner of the General Land Office expense accounts showing in each case all costs incident to the administration of the law with reference to such sales in order that the net proceeds therefrom may be ascertained. Where the sale is for timber on lands of the second class, the net proceeds shall, by direction of the Commissioner of the General Land Office, be deposited to that particular fund which was created by the act of cession and the Commissioner of Indian Affairs will be thus advised. In the third class of sales the net proceeds shall be held in a special fund, which the act of March 4, 1913, created and designated as a trust fund for the benefit of that claimant, selector, or grantee from whose claim, selection, or grant the timber was sold, until the unperfected claim, or unapproved selection or grant shall have been either patented or approved, or canceled or rejected. Upon receipt of the proper certification that a claim selection or grant shall have been patented or approved the Secretary of the Treasury will pay to the claimant, selector, or grantee, his heirs or legal representatives, the net proceeds, which had been deposited to his credit. Upon the cancellation or final rejection of a claim, selection, or grant, the Treasurer of the United States will upon receipt of the proper certification, transfer the money on deposit in the special fund, covering the value of the timber cut from the third class of lands, to the general fund covering the first class or the particular fund covering the second class, as the case may require.

(21) Chiefs of field divisions shall cause investigations to be made from time to time and submit a final report at the expiration of the period allowed for the cutting, showing whether or not the law and rules and regulations have been complied with and setting forth any infraction of the same.

(22) The cutting of the timber referred to herein in any other manner than that authorized by these instructions or the cutting of timber not authorized by these instructions, will be considered a trespass, except where the cutting is done under the conditions referred to in paragraphs 17 and 18, supra.

(23) Pursuant to acts of Congress no Member of or Delegate to Congress or Resident Commissioner, after his election or appointment, and either before or after he has qualified, and during his continuance in office, shall be admitted to any share or part of any contract or agreement, or to any benefit to arise thereupon, which shall

be entered into with the Government in accordance with these rules and regulations. Nothing, however, contained in such contract or agreement shall be construed to extend to any incorporated company, where such contract or agreement is made for the general benefit of such corporation. (See sec. 3741, U. S. R. S., and secs. 114 to 116, chap. 321, 35 Stat., 1109.)

Respectfully,

CLAY TALLMAN, *Commissioner.*

Approved:

ANDRIEUS A. JONES,
First Assistant Secretary.

APPENDIX.

AN ACT Prohibiting timber depredations on public lands and providing a penalty for violation thereof.

Whoever shall cut, or cause or procure to be cut, or shall wantonly destroy, or cause to be wantonly destroyed, any timber growing on the public lands of the United States; or whoever shall remove or cause to be removed, any timber from said public lands, with intent to export or to dispose of the same; or whoever, being the owner, master, or consignee of any vessel, or the owner, director or agent of any railroad, shall knowingly transport any timber so cut or removed from said lands, or lumber manufactured therefrom, shall be fined not more than one thousand dollars, or imprisoned not more than one year, or both. Nothing in this section shall prevent, any miner or agriculturist from clearing his land in the ordinary working of his mining claim, or in the preparation of his farm for tillage, or from taking the timber necessary to support his improvements, or the taking of timber for the use of the United States. And nothing in this section shall interfere with or take away any right or privilege under any existing law of the United States to cut or remove timber from any public lands.

Section 49, of the Penal Code, approved March 4, 1909 (35 Stats., 1088), chapter 321.

Suggestions regarding the cutting of timber by entrymen on their homestead claims.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., September 27, 1907.

1. Homestead claimants who have made bona fide settlements upon public land, and who are living upon, cultivating, and improving the same in accordance with law and the rules and regulations of this department, with the intention of acquiring title thereto, are permitted to cut and remove, or cause to be cut and removed, from the portion thereof being cleared for cultivation so much timber as is actually necessary for the purpose, or for buildings, fences, and other improvements on the land entered.

2. In clearing for cultivation, should there be a surplus of timber over what is needed for the purposes above specified, the entryman may sell or dispose of such surplus; but it is not allowable to denude the land of its timber for the purpose of sale or speculation before the title has been conveyed to him by patent.

3. It is not permissible to cut timber for sale, even when the money procured therefrom is to be used for improving or cultivating the land or supporting the claimant or his family.

4. The abandonment of a settlement claim after the timber has been removed is presumptive evidence that the claim was made for the primary purpose of obtaining the timber.

5. A bona fide settler upon unsurveyed public land who intends to acquire title to the land under the homestead laws as soon as he is allowed to do so after survey, and who, in good faith, is complying with the rules and regulations relative to residence, cultivation, and improvements, is permitted the same privileges with regard to the cutting of timber upon his claim as are allowed to the bona fide homesteader and is subject to the same restrictions.

Very respectfully,

R. A. BALLINGER, *Commissioner.*

Sec. 2322, U. S. R. S.: The locators of all mining locations heretofore made or which shall hereafter be made on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claim exists on the tenth day of May, eighteen hundred and seventy-two, so long as they comply with the laws of the United States, and with State, Territorial, and local regulations not in conflict with the laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes, and ledges throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side lines of such surface locations. But their right of possession to such outside parts of such veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as above described, through the end lines of their locations, so continued in their own direction that such planes will intersect such exterior parts of such veins or ledges. And nothing in this section shall authorize the locator or possessor of a vein or lode which extends in its downward course beyond the vertical lines of his claim to enter upon the surface of a claim owned or possessed by another.

The rights to the timber on the surface of lands embraced within mining locations as conferred by section 2322, U. S. R. S., according to the interpretation placed thereon by the Secretary of the Interior, are limited to the cutting of timber necessary for the development of the mine or incidental to operations related thereto.

The land must be actually mineral in character and the location must be made in good faith and not for the purpose of controlling water courses or to obtain valuable timber thereon. (Sec. 60, U. S. Mining Laws and Regulations, 37 L. D., 728.)

By the act of June 3, 1878, chapter 150 (20 Stats., 88), it is provided—

That all citizens of the United States and other persons, bona fide residents of the State of Colorado or Nevada, or either of the Territories of New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho, or Montana, and all other mineral districts of the United States, shall be, and are hereby, authorized and permitted to fell and remove, for building, agricultural, mining, or other domestic purposes, any timber or other trees growing or being on the public lands, said lands being mineral, and not subject to entry under existing laws of the United States, except for mineral entry, in either of said States, Territories, or districts of which such citizens or persons may be at the time

bona fide citizens, subject to such rules and regulations as the Secretary of the Interior may prescribe for the protection of the timber and of the undergrowth growing upon such lands, and for other purposes: *Provided*, The provisions of this act shall not extend to railroad corporations.

The case of *United States* v. *Plowman* (216 U. S., 372) interprets the character of lands covered by the act of June 3, 1878. See also *Davis* v. *Weibbold* (139 U. S., 507); *Northern Pacific Railroad Company* v. *Lewis* (162 U. S., 366, 376); *Bunker Hill and Sullivan Mining and Concentrating Company* v. *United States*. (Decision rendered by U. S. Supreme Court, January 6, 1913.)

The act of March 3, 1891 (26 Stats., 1093), provides:

In any criminal prosecution or civil action by the United States for a trespass on such public timber lands, or to recover timber or lumber cut thereon, it shall be a defense if the defendant shall show that the said timber was so cut or removed from the timber land for use in such State or Territory by a resident thereof for agricultural, mining, manufacturing, or domestic purposes, under rules and regulations made and prescribed by the Secretary of the Interior, and has not been transported out of the same, but nothing herein contained shall operate to enlarge the rights of any railway company to cut timber on the public domain provided that the Secretary of the Interior may make suitable rules and regulations to carry out the provisions of this act, and he may designate the sections or tracts of land where timber may be cut, and it shall not be lawful to cut or remove any timber except as may be prescribed by such rules and regulations, but this act shall not operate to repeal the act of June third, eighteen hundred and seventy-eight, providing for the cutting of timber on mineral lands.

The act of March 3, 1891, as originally enacted, was applicable to the States of Colorado, Montana, Idaho, North Dakota, South Dakota, Wyoming, Nevada, and Utah. By amendments contained in the acts of February 13, 1893 (27 Stat., 444), and of March 3, 1901 (31 Stat., 1436), it was made applicable also to the States of Arizona, New Mexico, California, Oregon, and Washington. It was extended by the act of July 1, 1898 (30 Stat., 618), providing for the export of timber from a specified area in the State of Wyoming into the State of Idaho, and by the act of March 3, 1901 (31 Stat., 1439), providing for the export of timber from a specified area in the State of Montana into the State of Wyoming.

WASHINGTON : GOVERNMENT PRINTING OFFICE : 1913

In reply please refer to Circular No. 260.

AUG 13 1913

DEPARTMENT OF THE INTERIOR

General Land Office

Washington

August 13, 1913.

: State selections.
: Certificate required.

Registers and Receivers,

United States Land Offices.

Sirs:

Beginning September 1, 1913, all lists of indemnity school land selections, and selections, by States, under special grants or grants in quantity (including "Carey Act" selections) must be accompanied by a certificate from the selecting agent, showing that the selections are made under and pursuant to the laws of the State. This certificate may be incorporated in an appropriate place at the top of the page, in the printed form used for making such selections, or it may be made upon a separate form, and attached in a suitable manner to the list.

On and after the date above mentioned, no application to select will be received or allowed by you unless accompanied by this certificate.

Very respectfully,

CLAY TALLMAN,

Commissioner.

Office Copy

Remain Stock

Obsolete - Circ No. 1728

CIRCULAR No. 263.

REGULATIONS GOVERNING ENTRIES WITHIN NATIONAL FORESTS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., August 19, 1913.

Registers and Receivers, United States Land Offices.

SIRS: Your attention is called to the act of June 11, 1906 (34 Stat., 233), a copy of which is hereto attached as Appendix A. This act authorizes homestead entries for lands within national forests, and you are instructed thereunder as follows:

1. Both surveyed and unsurveyed lands within national forests which are chiefly valuable for agriculture and not needed for public use may, from time to time, be examined, classified, and listed under the supervision of the Secretary of Agriculture, and lists thereof will be filed by him with the Secretary of the Interior, who will then declare the listed lands subject to settlement and entry.

2. Any person desiring to enter any unlisted lands of this character should present an application for their examination, classification, and listing to the district forester for the district in which the land is located in the manner prescribed by regulations issued by the Agricultural Department. (The present regulations are attached as Appendix B.)

3. When any lands have been declared subject to settlement and entry under this act, a list of such lands, together with a copy of the notice of restoration thereof to entry and authority for publication of such notice, will be transmitted to the register and receiver for the district within which the lands are located. Upon receipt thereof the register will designate a newspaper published within the county in which the land is situated and transmit to the publishers thereof the letter of authority and copy of notice of restoration, said notice to be published in the designated newspaper once each week for four successive weeks. You will also post in your office a copy of said notice, the same to remain posted for a period of 60 days immediately preceding the date when the lands are to be subject to entry. If no paper is published within the county, publication should be made in a newspaper published nearest the land.

4. The cost of publishing the notice mentioned in the preceding paragraph will not be paid by the receiver, but the publisher's vouchers therefor, in duplicate, should be forwarded to the Department of the Interior, Washington, D. C., by the publisher, accompanied by a duly executed proof of publication. The register will re-

quire the publisher to promptly furnish him with a copy of the issue of the paper in which such notice first appears, will compare the published notice with that furnished by this office, and in case of discrepancy or error cause the publisher to correct the printed notice and thereafter publish the corrected notice for the full period of four weeks.

5. In addition to the publication and posting above provided for, you will, on the day the list is filed in your office, mail a copy of the notice to any person known by you to be claiming a preferred right of entry as a settler on any of the lands described therein, and also at the same time mail a copy of the notice to the person on whose application the lands embraced in the list were examined and listed, and advise each of them of his preferred right to make entry prior to the expiration of 60 days from the date upon which the list is filed.

6. Any person qualified to make a homestead entry who, prior to January 1, 1906, occupied and in good faith claimed any lands listed under this act for agricultural purposes, and who has not abandoned the same, and the person upon whose application such land was listed, has, each in the order named, the preferred right to enter the lands so settled upon or listed at any time within 60 days from the filing of the list in your office. Should an application be made by such settler during the 60-day period you will, upon his showing by affidavit the fact of such settlement and continued occupancy, allow the entry. If an application is made during the same period by the party upon whose request the lands were listed, you will retain said application on file in your office until the expiration of the 60-day period, or until an entry has been made by a claimant having the superior preference right. If no application by a bona fide settler prior to January 1, 1906, is filed within the 60-day period, you will allow the application of the party upon whose request the lands were listed. If entry by a person claiming a settler's preference right is allowed, other applications should be rejected without waiting the expiration of the preferred-right period. Of the applicants for listing, only the one upon whose request a tract is listed secures any preference right. Other applicants for the listing of the same tract acquire no right by virtue of such applications.

All applications by other than the two classes above referred to which are filed prior to the date of opening should be rejected forthwith, notwithstanding the fact that an attempted transfer of the preference right of entry may have been made.

7. The fact that a settler named in the preceding paragraph has already exercised or lost his homestead right will not prevent him from making entry of the lands settled upon if he is otherwise qualified to make entry, but he can not obtain patent until he has complied with all of the requirements of the homestead law as to residence and cultivation and paid $2.50 per acre for the land entered by him.

8. When an entry embraces unsurveyed lands or irregular fractional parts of a subdivision of a surveyed section, a metes-and-bounds survey of such lands and fractional parts must be made at some time before the entryman applies to make final proof. Survey will not be required where the tract can be described by legal subdivisions or as a quarter or a half of a surveyed quarter-quarter section or rectangu-

lar-lotted tract, or as a quarter or half of a surveyed quarter-quarter-quarter section or rectangular-lotted tract.

9. Under the acts of August 10, 1912 (37 Stat., 287), and March 4, 1913 (37 Stat., 842), creating appropriations for the Department of Agriculture, such requisite metes-and-bounds surveys will be executed preparatory to listing, up to July 1, 1914, through the district forester under the direction of the surveyor general, in conformity with the regulations of circular No. 235, dated April 30, 1913.

Also under the acts and regulations last above mentioned, up to July 1, 1914, metes-and-bounds surveys required for entries based or to be based on listings under former practice, will be made through the same channel. Applications in these cases should be addressed to the district forester.

10. Such surveys will be made as stated in paragraph 9, up to July 1, 1914, under the appropriation made for that purpose; but if further appropriations be not thereafter available or other provision is not made by law, the entryman will cause such survey to be made at his expense. Application for the survey will be made to the proper United States surveyor general. It will be accompanied by the usual "duplicate" certificate of deposit, showing that an amount has been deposited in some United States depository to the credit of the Treasurer of the United States, sufficient to meet the expenses in the office of the surveyor general, incident to the requested survey. The application must be dated and signed and should state, so far as known to the entryman, each of the following items, namely: The list by number and date, the local land office, number or serial, and name of entryman, the description of the desired tract by metes and bounds, which must not include unlisted or unentered lands, the location by section, township, and range and whether these are surveyed or unsurveyed and whether the tract has been marked on the ground by the Forest Service. The application must also state the name and address of the surveyor the entryman desires to execute his survey, to whom, if deemed reliable and competent, the surveyor general will issue special instructions. The entryman's arrangement with his surveyor should be for a survey and returns sufficient at final proof.

With the usual triplicate plat and transcript field notes of survey, for your files, the surveyor general will transmit to your office the quadruplicate plat, at which time you will inform the entryman thereof, and when he applies to make final proof you will supply him with the plat for posting on his claim, as hereinafter directed.

11. The commutation provisions of the homestead laws do not apply to entries made under this act, but all entrymen must make final proof of residence and cultivation within the time, in the manner, and under the notice prescribed by the general provisions of the homestead laws, except that all entrymen who are required by the preceding paragraphs to have their lands, or any portion of them, surveyed must, within five years from the date of their settlement, present to the register and receiver their application to make final proof on all of the lands embraced in their entries.

Entries made under the said act of June 11, 1906, are subject to the provisions of sections 2291 and 2297, United States Revised Statutes as amended by the three-year homestead act of June 6, 1912 (37

Stat., 123), whether made before or after June 6, 1912. Proof, upon entries made prior to such date may, in the discretion of the entryman, be submitted under the old five-year law.

12. In all cases where a survey of any portion of the lands embraced in an entry made under this act is required, the register will, in addition to publishing and posting the usual final-proof notices, keep a copy of the final-proof notice, with a copy of the field notes and the plat of such survey attached, posted in his office during the period of publication, and the entryman must keep a copy of the final-proof notice and a copy of the plat of his survey prominently posted on the lands platted during the entire period of publication of notice of intention to submit final proof, and at the same time his final proof is offered he must file an affidavit showing the date on which the copies of the notice and plat were posted on the land and that they remained so posted during such period, giving dates.

13. Section 1 of the said act of June 11, 1906, having been amended by the act of May 30, 1908 (35 Stat., 554), the only counties in southern California in which entries thereunder can not be made are San Luis Obispo and Santa Barbara, to which counties the act of June 11, 1906, does not apply. Entries made of lands in the Black Hills National Forest can be made only under the terms and upon the conditions prescribed in sections 3 and 4 of the act of June 11, 1906, as amended by the act of February 8, 1907 (34 Stat., 883), and the act of July 3, 1912 (37 Stat., 188).

14. This act does not authorize any settlements within forest reserves except upon lands which have been listed, and then only in the manner mentioned above, and all persons who attempt to make any unauthorized settlement within such reserves will be considered trespassers and treated accordingly.

Very respectfully,

CLAY TALLMAN,
Commissioner.

Approved:
ANDRIEUS A. JONES,
First Assistant Secretary.

Appendix A.

AN ACT To provide for the entry of agricultural lands within forest reserves.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture may in his discretion, and he is hereby authorized, upon application or otherwise, to examine and ascertain as to the location and extent of land within permanent or temporary forest reserves, except the following counties in the State of California, Inyo, Tulare, Kern, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego; which are chiefly valuable for agriculture, and which, in his opinion, may be occupied for agricultural purposes without injury to the forest reserves, and which are not needed for public purposes, and may list and describe the same by metes and bounds, or otherwise, and file the lists and descriptions with the Secretary of the Interior, with the request that the said lands be opened to entry in acordance with the provisions of the homestead laws and this Act.

Upon the filing of any such list or description the Secretary of the Interior shall declare the said lands open to homestead settlement and entry in tracts not exceeding one hundred and sixty acres in area and not exceeding one mile in length, at the expiration of sixty days from the filing of the list in the land office of the district within which the lands are located, during which period the said list or description shall be prominently posted in the land office and advertised for a period of not less than four weeks in one newspaper of general circulation published in the county in which the lands are situated: *Provided*, That any settler actually occupying and in good faith claiming such lands for agricultural purposes prior to January first, nineteen hundred and six, and who shall not have abandoned the same, and the person, if qualified to make a homestead entry upon whose application the land proposed to be entered was examined and listed, shall, each in the order named, have a preference right of settlement and entry: *Provided further*, That any entryman desiring to obtain patent to any lands described by metes and bounds enterd by him under the provisions of this act shall, within five years of the date of making settlement, file, with the required proof of residence and cultivation, a plat and field notes of the lands entered, made by or under the direction of the United States surveyor-general, showing accurately the boundaries of such lands, which shall be distinctly marked by monuments on the ground, and by posting a copy of such plat, together with a notice of the time and place of offering proof, in a conspicuous place on the land embraced in such plat during the period prescribed by law for the publication of his notice of intention to offer proof, and that a copy of such plat and field notes shall also be kept posted in the office of the register of the land office for the land district in which such lands are situated for a like period; and further, that any agricultural lands within forest reserves may, at the discretion of the Secretary, be surveyed by metes and bounds, and that no lands entered under the provisions of this Act shall be patented under the commutation provisions of the homestead laws, but settlers, upon final proof, shall have credit for the period of their actual residence upon the lands covered by their entries.

Sec. 2. That settlers upon lands chiefly valuable for agriculture within forest reserves on January first, nineteen hundred and six, who have already exercised or lost their homestead privilege, but are otherwise competent to enter lands under the homestead laws, are hereby granted an additional homestead right of entry for the purposes of this act only, and such settlers must otherwise comply with the provisions of the homestead law, and in addition thereto must pay two dollars and fifty cents per acre for lands entered under the provisions of this section, such payment to be made at the time of making final proof on such lands.

Sec. 3. That all entries under this act in the Black Hills Forest Reserve shall be subject to the quartz or lode mining laws of the United States, and the laws and regulations permitting the location, appropriation, and use of the waters within the said forest reserves for mining, irrigation, and other purposes; and

no titles acquired to agricultural lands in said Black Hills Forest Reserve under this act shall vest in the patentee any riparian rights to any stream or streams of flowing water within said reserve; and that such limitation of title shall be expressed in the patents for the lands covered by such entries.

SEC. 4. That no homestead settlements or entries shall be allowed in that portion of the Black Hills Forest Reserve in Lawrence and Pennington counties in South Dakota except to persons occupying lands therein prior to January first, nineteen hundred and six, and the provisions of this act shall apply to the said counties in said reserve only so far as is necessary to give and perfect title of such settlers or occupants to lands chiefly valuable for agriculture therein occupied or claimed by them prior to the said date, and all homestead entries under this act in said counties in said reserve shall be described by metes and bounds survey.

SEC. 5. That nothing herein contained shall be held to authorize any future settlement on any lands within forest reserves until such lands have been open to settlement as provided in this act, or to in any way impair the legal rights of any bona fide homestead settler who has or shall establish residence upon public lands prior to their inclusion within a forest reserve.

Approved, June 11, 1906 (34 Stat., 233).

AN ACT Excepting certain lands in Pennington County, South Dakota, from the operation of the provisions of section four of an Act approved June eleventh, nineteen hundred and six, entitled "An Act to provide for the entry of agricultural lands within forest reserves."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following described townships in the Black Hills Forest Reserve, in Pennington County, South Dakota, to wit: Townships one north, one east; two north, one east; one north, two east; two north, two east; one south, one east; two south, one east; one south, two east; and two south, two east, Black Hills meridian, are hereby excepted from the operation of the provisions of section four of an Act entitled "An Act to provide for the entry of agricultural lands within forest reserves," approved June eleventh, nineteen hundred and six. The lands within the said townships to remain subject to all other provisions of said Act.

Approved, February 8, 1907 (34 Stat., 883).

AN ACT Excepting certain lands in Lawrence and Pennington Counties, South Dakota, from the operation of the provisions of section four of an Act approved June eleventh, nineteen hundred and six, entitled "An Act to provide for the entry of agricultural lands within forest reserves."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following-described townships in the Black Hills Forest Reserve, South Dakota, to wit: Township three north, one east, and so much of townships two north, one east, and two north, two east, as are within Lawrence County, and township one north, three east, in Pennington County, Black Hills meridian, are hereby excepted from the operation of the provisions of section four of an Act entitled "An Act to provide for the entry of agricultural lands within forest reserves," approved June eleventh, nineteen hundred and six. The lands within the said townships to remain subject to all other provisions of said Act.

Approved, July 3, 1912 (37 Stat., 188).

AN ACT To amend an Act approved June eleventh, nineteen hundred and six, entitled "An Act to provide for the entry of agricultural lands within forest reserves."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an Act entitled "An Act to provide for the entry of agricultural lands within forest reserves," approved June eleventh, nineteen hundred and six, be amended by striking out of section one the following words: "Except the following counties in the State of California: Inyo, Tulare, Kern, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego."

Approved, May 30, 1908 (35 Stat., 554).

Appendix B.

The following are in substance the Forest Service regulations governing applications under the act of June 11, 1906:

1. All applications for the listing of lands under the act of June 11, 1906, must be signed by the person who desires to make entry and must be mailed to the district forester for the district in which the land is located.

2. The person upon whose application the land is listed has the preference right of entry, unless there was a settler on the land prior to January 1, 1906, in which event the settler has the preference right.

3. Persons having preference rights under the act may file their entries at any time within sixty days after the filing of the list in the local land office. If they do not make entry within that time, the land will be subject to entry by the first qualified person to make application at the local land office.

4. All applications must give the name of the national forest and describe the land by legal subdivisions, section, township, and range, if surveyed, and if not surveyed, by reference to natural objects, streams, or improvements, with sufficient accuracy to identify it.

5. Section 2 of the act gives, within national forests only, an additional homestead right of entry upon lands chiefly valuable for agriculture, to settlers prior to January 1, 1906, who have already exercised or lost their homestead privilege, but who are otherwise competent to enter under the homestead laws. The general act of February 8, 1908, provides that any person who, prior to February 8, 1908, made entry under the homestead laws, but for any cause has lost, forfeited, or abandoned his entry, shall be entitled to the benefits of the homestead law as though such former entry had not been made, except when the entry was canceled for fraud or was relinquished for a valuable consideration.

6. The fact that an applicant has settled upon land will not influence the decision with respect to its agricultural character. Settlers must not expect to include valuable timber land in their entries. Settlement made after June 11, 1906, and in advance of opening by the Secretary of the Interior, is not authorized by the act, will confer no rights, and will be trespass.

7. Entry under the act is within the jurisdiction of the Secretary of the Interior, who will determine preference rights of applicants.

8. Applicants who appear to have a preference right under the act of June 11, 1906, will be permitted to occupy so much of the land applied for by them as in the opinion of the forest supervision is chiefly valuable for agriculture.

WASHINGTON : GOVERNMENT PRINTING OFFICE : 1913

SEP 26 1913

In reply please refer to Circular No. 269.

"A"--D.K.P.

DEPARTMENT OF THE INTERIOR

General Land Office

Washington

September 15, 1913.

: Amendment of regulations
: relative to reduction of
: cultivation.

Registers and Receivers,

United States Land Offices.

Sirs:

There is inclosed, for your immediate information and guidance, a copy of the instructions issued by the Department September 6, 1913, amending section 7 of circular No. 208 (41 L. D., 479), dated February 13, 1913, governing reduction of cultivation under the act of June 6, 1912 (37 Stat., 123). Printed circulars containing these instructions will be distributed in due time.

Acknowledge receipt hereof promptly.

Very respectfully,

CLAY TALLMAN,

Commissioner.

DEPARTMENT OF THE INTERIOR

Washington

September 6, 1913.

To the Commissioner of the General Land Office:

It is found, in the administration of the three-year homestead law, Act of June 6, 1912 (37 Stat., 123), that the regulations issued February 13, 1913, Circular No. 208 (41 L. D., 479), governing the reduction of cultivation, should be made more specific. Section 7 of said regulations is therefore amended to read as follows:

The Secretary of the Interior is authorized, upon a satisfactory showing therefor, to reduce the required area of cultivation. The homestead laws were enacted primarily for the purpose of enabling citizens of the United States "in good faith to obtain a home" and the provision of the statute in regard to reduction in the required area of cultivation will not be permitted to so operate as in any manner to relax the rule that the entryman must so reside upon, use, occupy, cultivate and improve the tract of land entered by him as to satisfactorily show that he in good faith at the time of such entry intended to make the land his bona fide home and that it has been his home to the date of final proof. However, if the tract of land entered is so hilly or rough, the soil so alkaline, compact, sandy, or swampy, the precipitation of moisture so light as not to make cultivation practicable, to the extent of the required amount, or if the land is generally valuable only for grazing, a reduction in the area of cultivation may be permitted. The personal or finan-

cial disabilities or misfortunes of the entryman existing at the time of entry will not be considered sufficient cause for reduction in the area of cultivation, but if after entry and actual settlement, through circumstances which at the time of entry could not reasonably have been foreseen, the entryman has met with misfortune which renders him reasonably unable to cultivate the prescribed area, upon satisfactory proof thereof at the time of making final proof, a reduction in area of cultivation may be permitted during the period of disability following such misfortune, provided notice of such misfortune and the nature thereof shall be submitted under oath within sixty days after the occurrence thereof to the Register of the land offiee of the district in which the land is situated. Tilling of the land or other appropriate treatment for the purpose of conserving the moisture with a view of making a profitable crop the succeeding year will be deemed cultivation within the terms of the act, where that manner of cultivation is necessary or generally followed in the locality.

No reduction in area of cultivation will be permitted on account of expense in removing the standing timber from the land. If lands are so heavily timbered that the entryman can not reasonably clear and cultivate the area prescribed by the statute, such entries will be considered speculative and not made in good faith for the purpose of obtaining a home.

The authority to make reduction in the prescribed area of cultivation relates to enlarged homestead entries as well as ordinary homesteads made under section 2289, R. S., and applications for reduction of area of cultivation under enlarged homestead entries will be made or refused in accordance with the provisions of this paragraph.

PROCEDURE TO OBTAIN A REDUCTION IN AREA OF CULTIVATION.

A showing should be made in each case as to the difficulties attendant upon the cultivation of that particular tract. To this end the entryman should show, in detail, the special physical conditions of the land which he believes entitles him to an order of reduction; describing its topography, whether hilly or level, its quality and character as adapted to cultivation, whether light or heavy, sandy, loamy, rocky or alkaline, together with the prevalent climatic conditions in the matter of annual snows or rains, as affording sufficient moisture for the production of crops one year with another. The presence or absence of springs or permanent streams on or in the immediate vicinity of the land should be shown. The natural products of the land without tillage, and the effect of tillage on the soil, should be shown, as well as the use to which the land is best adapted. It is desirable that the entryman should, wherever practicable, know in advance what, if any reduction can properly be made, and, there-

fore, as a general regulation governing applications for reduction in area of cultivation, it is directed that all entrymen who desire a reduction shall file applications therefor during the first year of the entry and upon forms to be prepared and furnished by the Commissioner of the General Land Office and distributed through the land offices, which will be forwarded, without action, to the Chief of the Field Division, and report made in accordance with circular 195, on form 4-007-b.

Applications for reduction in area of cultivation will be acted upon by the Commissioner of the General Land Office, who may in appropriate cases defer action until final proof, but his decision in granting or refusing applications for reduction in area shall be subject to review, upon appeal, by the Secretary of the Interior.

ANDRIEUS A. JONES,

Acting Secretary.

In reply please refer to Circular No. 370.

349953 "A". JWD.

DEPARTMENT OF THE INTERIOR

General Land Office

Washington

September 19, 1913.

:Notations as to Patents to be
:made on Serial Number Register.

Registers and Receivers,

United States Land Offices.

Sirs:

This office having been informed that it is the practice in some district land offices to note patents on the old "Record of Patents Delivered" (Form 4-767), instead of the Serial Register, your attention is called to circular instructions of June 10, 1908, entitled "Changes in the Method of Keeping Records and Accounts Relating to the Public Lands," wherein it is directed on page 17 that, among other records, the use of the "Record of Patents Delivered" should be discontinued on July 1, 1908. Section 10 of the same circular directs that all notations in regard to applications, entries, etc., shall be made on the Serial Number Register.

417

You are therefore directed to hereafter observe the instructions of circular of June 10, 1908, and to forward to this office any "Record of Patents Delivered" which contain no entries or notations.

Very respectfully,

C. M. BRUCE,

Assistant Commissioner.

WSH.

OCT 22 1913

In reply please refer to Circular No. 272.

367064 - "A" SVP.

DEPARTMENT OF THE INTERIOR

General Land Office

Washington

October 11, 1913.

: Applications for
: reinstatement.

Registers and Receivers,

United States Land Offices.

Gentlemen:

It has come to the attention of the office recently that applications for the reinstatement of canceled entries are, not infrequently, filed directly in this office. Applications of this character should primarily be filed in the district land office where the lands involved are situated, in order that proper notation of the application may be made on the records, and all parties affected thereby put on constructive notice as to the pendency of the application.

This requirement will hereafter be enforced, and you will give due publicity to this order.

Very respectfully,

CLAY TALLMAN,

Commissioner.

RAP

Contest Posting

In reply please refer to Circular No. 274.
"H"-McD

DEPARTMENT OF THE INTERIOR

General Land Office

Washington

October 25, 1913.

: Posting of contest notices.

Registers and Receivers,

United States Land Offices.

Sirs:

Some misunderstanding exists as to whether copies of contest notices for posting shall include the dates of publication, where service of the notice by publication is authorized.

Under Rule of Practice 9 it is provided that a statement of the dates of publication must be published with the notice, while the last paragraph of Rule 10 requires that a copy of the notice "as published," which necessarily includes the dates of publication, as well as the other matters required shall be posted in the office of the Register and also in a conspicuous place upon the land involved, such posting to be made within ten days after the first publication of the notice.

It is the practice in some districts to post, both on the land and in the office of the Register, carbon copies of the notice as issued for publication, which of course do not contain the dates of publication.

Contestants should be warned of thenecessity of posting copies of the notice AS PUBLISHED, and that it is necessary that the Register be furnished with a copy of the notice as soon as published. Upon receipt of such copy, the Register will immediately post the same, noting the date, and afterwards make the required certificate of posting.

Very respectfully,

CLAY TALLMAN,
Commissioner.

Approved:

A. A. JONES,
First Assistant Secretary.

under grants from Congress, for railroads and other purposes, charge 10 cents for each 160 acres or fraction thereof, computed as are the fees to be collected under paragraph 152 of Circular No. 105.[a]

Very respectfully,

CLAY TALLMAN, *Commissioner.*

Approved.

ANDRIEUS A. JONES,
First Assistant Secretary.

CIRCULAR No. 375

NOTATIONS ON TRACT BOOKS AND PLATS

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, January 22, 1915.

Registers and Receivers, United States Land Offices.

SIRS: It having come to the attention of this office that it has not been the practice of some registers to note all applications and entries of public lands on township plats, your attention is called to section 2295 of the Revised Statutes of the United States, which provides in part that:

> The register of the land office shall note all applications under the provisions of this chapter (5—Homesteads) on the tract books and plats of his office, and keep a register of such entries. * * *.

While this section applies to homestead applications only, it is nevertheless necessary that notations shall be made on the tract books and plats of all applications and entries of public lands, regardless of their character, in order that the status of a tract may be readily ascertained by the officer or person examining either tract book or plat, and you are instructed to hereafter cause the proper notations to be made on the plats as well as the tract books.

Applications should be noted on the plats with pencil, and changed to an ink notation if the application is subsequently allowed as an entry or its equivalent. Should the application later be finally rejected and closed, the pencil notation on the plat may be erased. Great care should be exercised in making notations and erasures not to injure the texture or topographic features of the plat.

Plat notations should be made by outlining the tract involved and inserting the serial number of the application within the lines. This will furnish a sufficient reference to the serial register containing a complete record of the case. Appropriate cross references should be made where an application embraces tracts extending into another township. All withdrawals, reservations, classifications, designations under the enlarged homestead act, and similar orders affecting the disposition of the land should be noted on the margin of the plats as well as on the tract books.

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[a] Circular No. 105 has been superseded by Circular No. 616. See par. 121, p. 75 and par. 139, p. 79.

Local officers whose plats have not heretofore been completely noted as indicated herein are directed, as time is available, to systematically check their plats with the tract books, and cause all necessary plat notations to be made.

Very respectfully,

CLAY TALLMAN, *Commissioner.*

[Reported, 44 L. D. 194]

CERTIFIED COPIES OF HOMESTEAD ENTRY PAPERS

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, July 14, 1915.

1. Hereafter no photographic certified copy of homestead entry papers, where the entry was made prior to June 22, 1874, and was for less than 160 acres, will be made, except for Government use. All certified copies of such entry papers, for other than Government use, must be typewritten. Where a blank form is used the blank spaces must be typewritten.

2. From and after this date no tracing of any signature, or imitation thereof, to papers in such homestead entries shall be made by any attorney, agent or other person, for private use. Chiefs of divisions having the custody of this class of homestead entry papers will see that this order is complied with.

CLAY TALLMAN, *Commissioner.*

Approved July 14, 1915.

A. A. JONES,
First Assistant Secretary.

[Reported, 44 L. D. 235]

INSTRUCTIONS RELATIVE TO FURNISHING COPIES AND PERMITTING INSPECTION OF THE RECORDS OF THE INTERIOR DEPARTMENT[1]

DEPARTMENT OF THE INTERIOR,
Washington, August 4, 1915.

To All Bureaus and Officers of the Interior Department:

The following instructions will govern the matter of furnishing copies of official books, records, etc., of this department, its bureaus, offices, and institutions, and the matter of inspecting such books, records, etc., under the provisions of the act of August 24, 1912 (37 Stat. 497), copy of which is appended hereto:

1. Any person desiring a copy of any such book, record, etc., within the custody of the Secretary of the Interior, the head of any bureau, office, or institution, or officer of this department, which is subject to be furnished under section 1 of said act when not prejudicial to the interests of the Government, must make written application for such copy to such custodian, except in cases coming within the second proviso of said section, stating in such application specifi-

[1] Modified by Circular No. 777, p. 1280.

Circular No. 275½

DEPARTMENT OF THE INTERIOR
General Land Office
Washington, D. C., October 15, 1913.

: Amendment of regulation 6, of
: regulations approved Jan. 6,
: 1913, Right of way, for electric
: poles and line, etc.

The Secretary of the Interior,

Sir: By letter dated June 25, last, this office submitted to the Department, with favorable recommendation, a map filed by the Pacific Telephone and Telegraph Company, in connection with its application for a fifty-year easement for the telephone and telegraph line shown on the map, under the provisions of the act of March 4, 1911 (36 Stat., 1253).

Considering this matter, under date of July 14, last, the First Assistant Secretary of the Interior directed me to draft an amendment to the regulations making it obligatory on applicants in such cases to construct, maintain, and operate their lines so as to obviate as much as possible interference with the use and development by subsequent entrymen and patentees of the lands traversed by the lines. To this end, I recommend that regulation 6 of the regulations approved January 6, 1913, (41 L. D., 454), be amended so that it will read as follows:

Reg. 6. Before any right of way is granted the applicant shall execute and file in or in amendment of his application a statement of the particular terms and conditions upon which and subject to which he asks to receive and agrees to take the grant of right of way; and he further agrees to construct, maintain, and operate the line or lines embraced by his application according to the usual standard of safety in such cases, and shall maintain the line or lines in such manner as not to menace life or property, and to interfere as little as possible with the use and development by subsequent entrymen and patentees of the lands traversed by the line or lines;---it being understood and agreed that less than 20 feet on each side of the center line is covered by the easement wherever such diminished right of way is found adequate for a proper use and enjoyment thereof; the grant may be made subject to these terms and conditions, in which case such terms and conditions, together with these regulations, shall define and limit the grant, which shall be effective only if and in so far as it is subject to such terms, conditions and regulations. Such original or amended application with the approval thereof by the Secretary of the Interior shall together constitute the grant and express the terms and conditions thereof, and the factof auch approval shall be noted on the application maps.

Very respectfully,

CLAY TALLMAN,
Commissioner.

Approved October 25, 1913.

A. A. JONES,
First Assistant Secretary.

In reply please refer to Circular No. 276.

"FS" JDY

Superseded by Cir 1261

DEPARTMENT OF THE INTERIOR

General Land Office

Washington

October 30, 1913.

: Rule 7, Circular of April
: 24, 1907 (35 L. D., 681-2),
: amended.

Registers and Receivers,

United States Land Offices.

Sirs:

Rule 7 of the Circular of April 24, 1907 (35 L. D., 681-2), is hereby amended so as to read:

When copy of notice is returned with endorsement not protesting the validity of the entry, the Register and Receiver will act upon the merits of the proof as submitted.

Where returned notice by Chief of Field Division or other officer protests the validity of the entry, the Register and Receiver will forward all papers to this office without action, except in cases of mineral applications for patent. In mineral applications for patent the proof should be considered upon its merits and, if found regular, certificate issued, although a protest may have been filed, but the claimant should be advised in such a case that patent will be withheld by the General Land Office pending a report by the Chief of Field Division upon the bona fides of the claim.

Very respectfully,

CLAY TALLMAN,

Commissioner.

October 30, 1913.

Approved:

ANDRIEUS A. JONES,

First Assistant Secretary.

DEC 2 1913

In reply please refer to "FS" 13-375449-JDY.

Copy to each Register and Receiver and Chief of Field Division.

DEPARTMENT OF THE INTERIOR
General Land Office
Washington

November 22, 1913.

Register and Receiver,
Seattle, Washington.

Sirs:

In your letter of November 8th, you state that you have received a supply of circulars Nos. 276 and 277, relative to the amendment to Rule 7, Circular of April 24, 1907 (35 L. D. 681, 682), and you wish to be informed if you are to issue certificates in such cases, also if the rule will apply to cases within forest reserves.

In reply you are advised that in all cases in which application for patent was made to you after the circulars referred to, you will as stated in circular 276, consider the proof upon its merits and if found regular in all other respects, except that protest has been filed, issue certificate upon payments of all amounts due. The applicant should in every case be advised that a protest has been filed and that no patent will issue until an investigation has been made by a chief of field division and reported to this office.

You will not issue certificate in any case where the certificate was withheld and the proof forwarded to this office prior to the circular No. 276, until specifically directed to do so by this office in each case.

Where a mineral applicant files a petition for the issuance of certificate, in the latter class of cases, you should forward the the same to this office, where the matter will be duly considered and appropriate instructions given you.

This rule applies to cases in national forests as well as elsewhere.

Respectfully,

CLAY TALIMAN,
Commissioner.

NOV 6 1913

In reply please refer to Circular No. 277.

"FS" HLU

DEPARTMENT OF THE INTERIOR

General Land Office

Washington

October 30, 1913.

:Transmitting supply of circu-
;lar of October 30, 1913, amend-
:ing Rule 7 Circular of April
:24, 1907, relative to action
:on protests.

Registers and Receivers,

United States Land Offices.

Sirs:

There are being forwarded, under separate cover, a supply of Circular No. 276, amending Rule 7 of the Circular of April 24, 1907 (35 L. D., 681-2), insofar as it relates to action on protests by Chiefs of Field Divisions against mineral applications.

You will immediately mail a copy of said circular to each and every person having a pending application for patent under the mining laws upon which final certificate has not issued because of protest by the Chief of Field Division.

Very respectfully,

CLAY TALLMAN,

Commissioner.

10-30-GMS

NOV 12 1913

In reply please refer to Circular No. 279.

"FS" PIB

DEPARTMENT OF THE INTERIOR

General Land Office

Washington

November 6, 1913.

: Instructions.

Registers and Receivers,

United States Land Offices.

Sirs:

You will make special all cases of adverse proceedings involving what are commonly known as the Hyde-Benson Lieu Selections. This will include all actions from receipt of the letter directing adverse proceedings, up to and including your final report to this office.

You will examine your records, and if any of these cases are found pending your decision, or other action by your office, you will immediately take same up for action. The cases included in this order are, in other words, all Forest Lieu Selections made under the Act of June 4, 1897 (30 Stat.,36) and based on any part of Sections 16 or 36 California and Oregon.

Very respectfully,

CLAY TALLMAN,
Commissioner.

11-5-GMS

In reply please refer to Circular No. 281.

"F" JFC

NOV 2 1913

DEPARTMENT OF THE INTERIOR

General Land Office

Washington

October 14, 1913.

: Defective publication;
: Attention called thereto.

Registers and Receivers,
U. S. Land Offices.

Gentlemen:

Your attention is invited to the fact that in many cases the proof of publication and posting required by the instructions of February 21, 1908 (36 L. D., 278) are defective. Under the instructions the notice must be published in a newspaper, posted on the land and in the local office for a period of 30 days, such publication and posting to cover the same period of 30 consecutive days. That the posting and publication is made merely for a period of 30 consecutive days or over, is not sufficient if they do not cover a period of 30 days simultaneously. That this requirement is not complied with is the main cause of complaint. Other objections are that the Register frequently fails to give the first and last dates of posting in his office, especially the last date, relying on the statement that it was posted for a period of thirty days. That the description in the published notice is incorrect; that the affidavit of the publisher and the person posting the notice on the land has not the signature of the affiant or notary attached or that the notary or other officer has failed to attach his seal; that the affidavit of posting does not show where and how the notice was posted on each non-contiguous tract.

Upon the receipt of any proof of posting and publication you will carefully examine the same and if any defects are found you will return them with instructions to cure such defects. This matter has been the source of considerable annoyance and delay to this office, and you are directed to give it careful consideration in the future.

Very respectfully,

CLAY TALLMAN,
Commissioner.

Board of Law Review,
By W. B. Pugh.

DEC 5 1913

In reply please refer to Circular No. 283.

"K" R.E.M.

DEPARTMENT OF THE INTERIOR

General Land Office

Washington

November 21, 1913.

: Instructions relative to
: procedure under act of
: June 11, 1906.

Registers and Receivers,

United States Land Offices.

Sirs:

An examination of the final proofs coming up under the act of June 11, 1906 (34 Stat., 233), shows that in numerous instances the entrymen are permitted to submit proof and the final certificate is issued without objection where a portion of the period of residence is shown to be prior to the date of the restoration of the land under the said act of June 11, 1906. Where such residence was begun prior to the date of the act of June 11, 1906, such credit is allowed, but where the residence was established between the date June 11, 1906, and the date of the restoration of the lands involved, all final proofs will be rejected unless sufficient residence since the date of the restoration be shown. These instructions are in accordance with departmental letter of January 12, 1910, addressed to the Secretary of Agriculture.

While most of the local officers are noting across the face of applications under the act of 1906 the fact that the same are made thereunder, and also giving the list number involved, yet in

some instances this notation is omitted. You will therefore in all such cases note across the face of the application "Act of June 11, 1906, List No. _____."

Attention is further called in connection herewith to the fact that on homestead entries made under the said act of 1906 for tracts described by metes and bounds, a metes and bounds survey is required prior to the submission of final proof. The proof notice should be made to bear the description as per the homestead entry survey and not that given in the homestead application and the list as prepared by the Department of Agriculture in the first instance. The final official survey should therefore be followed in preparing the description for the final proof and it should also be used in describing the lands in the final certificate. It is not sufficient in the notice and the final certificate that reference merely be made to the homestead entry survey number, approved such a date, but the complete metes and bounds descfiption should be inserted, which description should also contain a reference to the number of the official survey.

Very respectfully,

CLAY TALLMAN,

Commissioner.

10-24 WD

DEC 5 1913

In reply please refer to Circular No. 284.

1 Inc.

"M" FTL

DEPARTMENT OF THE INTERIOR

General Land Office

Washington

November 25, 1913.

RETURNS: "Schedule of Allowances."

Registers and Receivers,

United States Land Offices.

Sirs:

Hereafter, each sheet of the "Schedule of Allowances" must be totaled as to number of applications, entries, etc., area and money and the footings carried forward from page to page. The items in the "Summary" must also be totaled as to number, area and amount, which totals must of course agree with the grand total of the items reported in the body of the schedule.

The above instructions are necessitated by the numerous discrepancies disclosed in the verification of said schedule.

Please acknowledge receipt hereof on inclosed postal card.

Very respectfully,

CLAY TALLMAN,

Commissioner.

11-22-JHB

DEC 26 1913

In reply please refer to Circular No. 286.

"FS" Idaho T. T. 213 (10-80619) - D M G

DEPARTMENT OF THE INTERIOR

General Land Office

Washington

December 17, 1913.

: Instructions.

Registers and Receivers,

Sirs:

New blanks forms 4-022b, application for permits to cut timber from nonmineral public lands under the provisions of the act of March 3, 1891 (26 Stat., 1093), and Circular No. 223, approved March 25, 1913 (42 L. D., 22), and 4-022d, application for permit to cut timber from mineral public lands under the provisions of the act of June 3, 1878 (20 Stat., 88), and Circular No. 222, approved March 25, 1913 (42 L. D., 30), have been printed and are to supersede the old forms of the same numbers. If you have any of the old forms on hand, you are hereby directed to cause the same to be destroyed. As all cases arising under the two above referred to acts come under the jurisdiction of the Chiefs of Field Divisions, you will refer all inquiries received by you relative to these classes of cases to the proper Chief of Field Division.

Very respectfully,

C. M. BRUCE,

Assistant Commissioner.

12-16-WCK

JAN 8 1914

In reply please refer to Circular No. 287.

DEPARTMENT OF THE INTERIOR

General Land Office

Washington

December 27, 1913.

: Revoking Circular No. 86 of
: March 5, 1912, and giving
: instructions relative inves-
: tigations of State and rail-
: road selections as to min-
: eral character.

Registers and Receivers,
U. S. Land Offices, and
Chiefs of Field Division.

Sirs:

Circular No. 86, dated March 5, 1912, which revoked Circular No. 37, of July 28, 1911, relative to action to be taken in the matter of investigation of State and railroad selections as to mineral character, is hereby revoked. The practice which obtained under the instructions contained in paragraphs 1, 2, and 3, of Circular No. 37, of July 28, 1911, will hereafter be followed, and registers and receivers will in accordance with that circular advise the proper chief of field division of the acceptance of any State or railroad selection, other than Carey Act selections, and will furnish to him such data relating thereto as is required thereunder.

Upon receipt of this data the chief of field division will immediately advise the proper local land office as to whether or not he proposes to make an investigation as to the mineral character of the lands embraced in the selection list. For the purpose of determining whether or not an investigation should be made the chief of field division will be guided by the practice which obtains in other cases, that is, he will not make investigations unless he has information indicating that the land is mineral in character or there are other facts in his possession which in his judgment make it advisable that such an investigation should be made.

Respectfully,

CLAY TALLMAN,
Commissioner.

12-9-RCL

These ~~is~~ are All there are left

CIRCULAR No. 289

GENERAL LAND OFFICE

REGULATIONS

UNDER

TIMBER AND STONE LAW

(Act of June 3, 1878, and Acts Amendatory)

(APPROVED NOVEMBER 30, 1908)

REVISED AND APPROVED JANUARY 2, 1914

WASHINGTON
GOVERNMENT PRINTING OFFICE
1914

REGULATIONS UNDER TIMBER AND STONE LAW.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., November 30, 1908.

REGISTERS AND RECEIVERS,
United States Land Offices.

SIRS: The regulations under the act of June 3, 1878 (20 Stat., 89), and amendatory acts, commonly known as the timber and stone law, are hereby revised, modified, and reissued as follows:

PROVISION FOR APPRAISEMENT.

Any land subject to sale under the foregoing acts may, under the direction of the Commissioner of the General Land Office, upon application or otherwise, be appraised by smallest legal subdivisions, at their reasonable value, but at not less than $2.50 per acre; and hereafter no sales shall be made under said acts except as provided in these regulations.

CHARACTER OF LANDS SUBJECT TO ENTRY.

All unreserved, unappropriated, nonmineral, surveyed public lands within the public-land States, which are valuable chiefly for the timber or stone thereon and unfit for cultivation at the date of sale, may be sold under this act at their appraised value, but in no case at less than $2.50 per acre, in contiguous legal subdivisions upon which there is no existing mining claim or the improvements of any bona fide settler claiming under the public-land laws. The terms used in this statement may be defined substantially as follows for the purpose of construing and applying this law:

2. *Unreserved and unappropriated lands* are lands which are not included within any military, Indian, or other reservation, or in a national forest, or in a withdrawal by the Government for reclamation or other purposes, or which are not covered or embraced in any entry, location, selection, or filing which withdraws them from the public domain.

3. *Unoccupied lands* are lands belonging to the United States upon which there are no improvements belonging to any person who has initiated and is properly maintaining a valid mining or other claim

to such lands under the public-land laws. Abandoned and unused mines, shafts, tunnels, or buildings occupied by mere trespassers not seeking title under any law of the United States, do not prevent timber and stone entries if the land is otherwise capable of being so entered.

4. *Nonmineral lands* are such lands as are not known to contain any substance recognized and classed by standard authorities as mineral, in such quantities and of such qualities as would, with reasonable prospects of success in developing a paying mine thereon, induce a person of ordinary prudence to expend the time and money necessary to such development.

5. *Timber is defined* as trees of such kind and quantity, regardless of size, as may be used in constructing buildings, irrigation works, railroads, telegraph and telephone lines, tramways, canals, or fences, or in timbering shafts and tunnels or in manufacturing, but does not include trees suitable for fuel only.

6. *Lands valuable chiefly for timber,* but unfit for cultivation, are lands which are more valuable for timber than they are for cultivation in the condition in which they exist at the date of the application to purchase, and therefore include lands which could be made more valuable for cultivation by cutting and clearing them of timber. The relative values for timber or cultivation must be determined from conditions of the land existing at the date of the application to purchase.

7. Lands may be entered under the timber and stone acts, except as denied by special laws, in all of the public-land States; but such entries may not be made in Alaska.

BY WHOM ENTRIES MAY BE MADE.

8. One timber and stone entry may be made for not more than 160 acres (*a*) by any person who is a citizen of the United States, or who has declared his intention to become such citizen, if he is not under 21 years of age, and has not already exhausted his right by reason of a former application for an entry of that kind, or has not already acquired title to or is not claiming under the homestead or desert-land laws through settlement or entry made since August 30, 1890, any other lands which, with the land he applies for, would aggregate more than 320 acres; or (*b*) by an association of such persons; or (*c*) by a corporation, each of whose stockholders is so qualified.

9. A married woman may make entry if the laws of the State in which she applies permit married women to purchase and hold for themselves real estate, but she must make the entry for her own benefit, and not in the interest of her husband or any other person.

METHOD OF OBTAINING TITLE.

10. *Any qualified person* may obtain title under the timber and stone law by performing the following acts: (*a*) Personally examining the land desired; (*b*) presenting an application and sworn statement, accompanied by a filing fee of $10; (*c*) depositing with the receiver the appraised price of the land; (*d*) publishing notice of his application and proof; (*e*) making final proof.

11. *Examination of the land* must be made by the applicant in person not more than 30 days before the date of his application, in order that he may knowingly swear to its character and condition.

APPLICATION AND SWORN STATEMENT: DEPOSIT.

12. *The application and sworn statement must contain* the applicant's estimate of the timber, based on examination, and his valuation of the land and the timber thereon, by separate items. (See Form A, Appendix.) It must be executed in duplicate, after having been read to or by the applicant, in the presence of the officer administering the oath, and sworn to by him before such officer, who may be either the register or the receiver of the land district in which the land is located, a United States commissioner, a judge or a clerk of a court of record in the county or parish in which the land is situated, or one of these officers outside of that county or parish, if he is nearer and more accessible to the land than any other qualified officer and has his office or place of business within the land district in which the land is located. Each applicant must, at the time he presents his application and sworn statement, deposit with the receiver a filing fee of $10.

13. *Applications by associations or corporations must,* in addition to the facts recited in the foregoing statement, show that each person forming the association or holding stock in the corporation is qualified to make entry in his own right and that he is not a member of any other association or a stockholder in any other corporation which has filed an application or sworn statement for other lands under the timber and stone laws.

DISPOSITION OF APPLICATION.

14. *After application and deposit have been filed* in proper form, as required by these regulations, the register and receiver will at once forward one copy of the application to the chief of field division having jurisdiction of the land described, who, if he finds legal objection to the allowance of the application, will return it to them with report thereon. The register and receiver will, if they concur in an adverse recommendation of the chief of field division, dismiss or deny the application, subject to the applicant's right of appeal; but if they disagree with his recommendation they will forward the

record to the Commissioner of the General Land Office, with their report and opinion thereon, for such action as he may deem advisable.

If the chief of field division finds no such legal objection to the application, he shall cause the lands applied for to be appraised by an officer or employee of the Government. (Designation of Appraiser, Form B, Appendix.)

APPRAISEMENT: METHOD.

15. The officer or employee designated to make the appraisement must personally visit the lands to be appraised and thoroughly examine every legal subdivision thereof, and the timber thereon, and appraise separately the several kinds of timber at their stumpage value, and the land independent of the timber at its value at the time of appraisement, but the total appraisement of both land and timber must not be less than $2.50 per acre. He must, in making his report, consider the quantity, quality, accessibility, and any other elements of the value of the land and the timber thereon. The appraisement must be made by smallest legal subdivisions, or the report must show that the valuation of the land and the estimate of the timber apply to each and every subdivision appraised. (See Form C, Appendix.)

APPRAISEMENT: MANNER OF RETURN: APPROVAL.

16. The completed appraisement must be mailed or delivered personally to the chief of field division under whose supervision it was made, and not to the applicant. Each appraisement upon which an entry is to be allowed must be approved, respectively or conjointly, as provided in these regulations, by the chief of field division under whose supervision it was made, by the register and receiver who allow the entry, or by the Commissioner of the General Land Office.

APPRAISEMENT: DISAGREEMENT BETWEEN APPRAISING AND APPROVING OFFICERS: HOW DETERMINED.

17. The chief of field division will return to the appraiser, with his objections, an appraisement which he deems materially low or high, and the appraiser shall within 20 days from the receipt thereof, resubmit the papers, with such modifications or explanations as he may deem advisable or proper, upon receipt of which the chief of field division will either approve the schedule as then submitted, or forward the papers to the register and receiver, with his memorandum of objection. The register and receiver will thereupon consider the case. If they approve the appraisement, they will sign the certificate appended thereto, and advise the chief of field division thereof. If the register and receiver approve the objection of the chief of field

division, they will so indicate, and if the appraising officer is an employee of the Interior Department, under the supervision of the chief of field division, they will return the papers to the chief of field division, who will thereupon order a new appraisement by a different officer. If, however, the register and receiver approve the objection of the chief of field division, when the appraiser is an officer of another bureau of this department, or of another department, they will forward the record of the case to the Commissioner of the General Land Office, who will then determine the controversy.

APPRAISEMENT: NOTATION AND EFFECT THEREOF.

18. *When the appraisement is completed,* the register and receiver will note the price on their records, and thereafter the land will be sold at such price only, under the provisions of the timber and stone acts, unless the land shall have been reappraised in the manner provided herein.

FAILURE TO APPRAISE: RIGHTS OF APPLICANT: HOW TERMINATED.

19. Unless the land department, as hereinbefore provided, or otherwise, as directed by the Secretary of the Interior, shall appraise any lands applied for under these regulations within nine months from the date of such application, the applicant may, without notice, within 30 days thereafter, deposit the amount, not less than $2.50 per acre, specified in his application as the reasonable value of the land and the timber thereon, with the receiver, if appraisement has not been filed prior to such deposit, and thereupon will be allowed to proceed with his application to purchase as though the appraisement had been regularly made. The failure of the applicant to make the required deposit within 30 days after the expiration of the nine months' appraisement period will terminate his rights without notice.

NOTICE OF APPRAISEMENT: PAYMENT OR PROTEST.

20. If the appraisement shows the land, or any subdivision thereof, to be subject to entry, the register and receiver will note its appraised price on their records, and will immediately inform the applicant that he must, within 30 days from service of notice, deposit with the receiver, either in lawful money, in post-office money orders payable to the receiver, in certified checks drawn in favor of the receiver which can be cashed without cost to the Government, or as provided in paragraph 36 hereof, the appraised price of the land, or of said part, and the timber thereon, or within said time file his protest against the appraisement, depositing with the receiver a sum sufficient to de-

fray the expenses of a reappraisement (which sum, not less than $100, must be fixed by the register and receiver and specified in the notice to the applicant), together with his application for reappraisement at his own expense. (See Form D, Appendix.)

If the register and receiver reject the application as to part or all of the land, upon the ground that the appraisement shows it not to be subject to entry, applicant may within said 30 days file his affidavit, corroborated by two witnesses, setting forth facts which tend to disprove the appraisement, and thereupon a hearing shall be ordered to determine the facts, notice thereof being given to the chief of field division.

Notice must be given by registered letter and the envelope should be marked for return if not delivered within 30 days. If notice be returned after being held in the post office for 30 days, such proceedings will constitute constructive notice for 30 days.

After 30 days' notice has been had, if no deposit of the price has been made, or protest against the appraisement has been filed as to lands found subject to entry, and no application for hearing, or appeal, has been filed as to lands found not subject to entry, the register and receiver shall close the case on their records, all rights under the application being terminated without notice.

OBJECTION TO APPRAISEMENT: APPLICATION FOR REAPPRAISEMENT.

21. Any applicant filing his protest against an appraisement, and his application for reappraisement, must support it by his affidavit, corroborated by two competent, credible, and disinterested persons, in which he must set forth specifically his objections to the appraisement. He must indicate his consent that the amount deposited by him for the reappraisement, or such part thereof as is necessary, may be expended therefor, without any claim on his part for a refund or return of the money thus expended.

REAPPRAISEMENT.

22. *Upon the receipt of a protest against appraisement* and application for reappraisement conforming to the regulations herein, the register and receiver will transmit such protest and application to the chief of field division, who will cause the reappraisement to be made by some officer other than the one making the original appraisement. The procedure provided herein for appraisement will be followed for reappraisement, except the latter, if differing from the former, must, to give it effect, be approved both by the chief of field division and the register and receiver, or, in case of disagreement between them, by the Commissioner of the General Land Office. (Form E, Appendix.)

NOTICE OF APPRAISEMENT.

23. When a reappraisement is finally effected, the register and receiver will note the reappraised price on their records, and at once notify the applicant that he must, within 30 days from the date of notice, deposit with the receiver the amount fixed by such reappraisement for the sale of the land, or thereafter, and without notice, forfeit all rights under his application. (Form F, Appendix.)

COST OF MAKING REAPPRAISEMENT.

24. The officer or employee of the United States making the reappraisement shall be paid from the amount deposited with the receiver by the applicant therefor, the salary, per diem, and other expenses to which he would have been entitled from the Government, in the case of an original appraisement, for his serivces for the time he was engaged in making and returning the reappraisement. The receiver will, out of the money deposited by the applicant, pay such compensation including reasonable expenses for subsistence, transportation, and necessary assistants; and the officer will deduct from his expense account with the Government the amount which he has received from the receiver for such services. The receiver will return to the applicant the amount, if any, remaining on deposit with him after paying the expenses of said reappraisement.

FINAL PROOF.

25. After the appraisement or reappraisement and deposit of purchase money and fee have been made the register will fix a time and place for the offering of final proof, and name the officer before whom it shall be offered and post a notice thereof in the land office and deliver a copy of the notice to the applicant, to be by him and at his expense published in the newspaper of accredited standing and general circulation published nearest the land applied for. This notice must be continuously published in the paper for 60 days prior to the date named therein as the day upon which final proof must be offered. (Form G, Appendix.)

TIME, PLACE, AND METHOD OF MAKING FINAL PROOF.

26. Final proof should be made at the time and place mentioned in the notice, and, as a part thereof, evidence of publication, as required by the previous paragraph, should also be filed. If final proof is not made on that day or within 10 days thereafter, the applicant may lose his right to complete entry of the land. Upon satisfactory showing, however, explaining the cause of his failure to make the proof as above required, and in the absence of adverse claim, the Commissioner of the General Land Office may authorize him to readvertise

and complete entry under his previous application. (See Form H, Appendix.)

FINAL ENTRY.

27. After an appraisement or reappraisement has been approved, the payments made, and satisfactory proof submitted in any case as required by these regulations, the register and receiver will, if no protest or contest is pending, allow a final entry.

GENERAL PROVISIONS.

CONTESTS AND PROTESTS.

28. Protest may be filed at any time before an entry is allowed, and contest may be filed at any time before patent issues, by any person who will furnish the register and receiver with a corroborated affidavit alleging facts sufficient to cause the cancellation of the entry, and will pay the cost of contest.

FALSE SWEARING—FORFEITURE.

29. If an applicant swear falsely in his application or sworn statement, he will be liable to indictment and punishment for perjury; and if he be guilty of false swearing or attempted fraud in connection with his efforts to obtain title, his application and entry will be disallowed and all moneys paid by him will be forfeited to the Government, and his rights under the timber and stone acts will be exhausted.

EFFECT OF APPLICATION TO PURCHASE.

30. *After an application has been presented* hereunder no other person will be permitted to file on the land embraced therein under any public-land law until such application shall have been finally disposed of adverse to the applicant.

31. *Lands appraised or reappraised* hereunder, but not sold, may, upon the final disallowance of the application, be entered by any qualified person, under the provisions of the timber and stone laws, at its appraised or reappraised value, if subject thereto.

32. *Lands applied for but not* appraised and not entered under these regulations may, when the rights of the applicant are finally terminated, be disposed of as though such application had not been filed.

33. *Any lands which have not been* reappraised may be reappraised upon the request of an applicant therefor under these regulations who complies with the requirements of section 21 hereof.

34. *An applicant securing a reappraisement* under these regulations shall acquire thereby no right or privilege except that of pur-

chasing the lands at their reappraised value, if he is qualified, and if the lands are subject to sale under his application; and he must otherwise comply with these regulations, but shall not, in any event, be entitled to the return of any money deposited by him and expended in such reappraisement.

35. *The Commissioner of the General Land Office* may at any time direct the reappraisement of any tract or tracts of public lands, when, in his opinion, the conditions warrant such action.

36. *Unsatisfied military bounty land warrants* under any act of Congress and unsatisfied indemnity certificates of location under the act of Congress approved June 2, 1858, properly assigned to the applicant, shall be receivable as cash in payment or part payment for lands purchased hereunder at the rate of $1.25 per acre.

37. These regulations shall be effective on and after December 1, 1908, but all applications to purchase legally pending on November 30, 1908, may be completed by compliance with the regulations in force at the time such applications were filed.

38. The forms mentioned herein and included in the appendix hereto shall be a part of these regulations.

ENTRY OF STONE LANDS.

39. The foregoing regulations apply to entries of lands chiefly valuable for stone, and the forms herein prescribed can be modified in such manner as may be necessary to the making of entries of stone lands.

FORMER REGULATIONS REVOKED.

40. All former regulations, decisions, and practices in conflict with these regulations are hereby revoked.

Revised January 2, 1914.

Very respectfully, CLAY TALLMAN, *Commissioner.*

Revision approved January 2, 1914:

ANDRIEUS A. JONES,
First Assistant Secretary.

APPENDIX.

Acts relating to Timber and Stone Entries.

AN ACT For the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That surveyed public lands of the United States within the States of California, Oregon, and Nevada, and in Washington Territory, not included within military, Indian, or other reservations of the United States, valuable chiefly for timber, but unfit for cultivation, and which have not been offered at public sale, according to law, may be sold to citizens of the United States, or persons who have declared their intention to become such, in quantities not exceeding one hundred and sixty acres to any one person or association of persons, at the minimum price of two dollars and fifty cents per acre; and lands valuable chiefly for stone may be sold on the same terms as timber lands: *Provided*, That nothing herein contained shall defeat or impair any bona fide claim under any law of the United States, or authorize the sale of any mining claim, or the improvements of any bona fide settler, or lands containing gold, silver, cinnabar, copper, or coal, or lands selected by the said States under any law of the United States donating lands for internal improvements, education, or other purposes: *And provided further*, That none of the rights conferred by the act approved July twenty-sixth, eighteen hundred and sixty-six, entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes," shall be abrogated by this act; and all patents granted shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under and by the provisions of said act; and such rights shall be expressly reserved in any patent issued under this act.

SEC. 2. That any person desiring to avail himself of the provisions of this act shall file with the register of the proper district a written statement in duplicate, one of which is to be transmitted to the General Land Office, designating by legal subdivisions the particular tract of land he desires to purchase, setting forth that the same is unfit for cultivation, and valuable chiefly for its timber or stone; that it is uninhabited; contains no mining or other improvements, except for ditch or canal purposes, where any such do exist, save such as were made by or belonged to the applicant, nor, as deponent verily believes, any valuable deposit of gold, silver, cinnabar, copper, or coal; that deponent has made no other application under this act; that he does not apply to purchase the same on speculation, but in good faith to appropriate it to his own exclusive use and benefit, and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whatsoever, by which the title which he might acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person except himself; which statement must be verified by the oath of the applicant before the register or the receiver of the land office

within the district where the land is situated; and if any person taking such oath shall swear falsely in the premises, he shall be subject to all the pains and penalties of perjury, and shall forfeit the money which he may have paid for said lands, and all right and title to the same; and any grant or conveyance which he may have made, except in the hands of bona fide purchasers, shall be null and void.

SEC. 3. That upon the filing of said statement, as provided in the second section of this act, the register of the land office shall post a notice of such application, embracing a description of the land by legal subdivisions, in his office, for a period of sixty days, and shall furnish the applicant a copy of the same for publication, at the expense of such applicant, in a newspaper published nearest the location of the premises, for a like period of time; and after the expiration of said sixty days, if no adverse claim shall have been filed, the person desiring to purchase shall furnish to the register of the land office satisfactory evidence, first, that said notice of the application prepared by the register as aforesaid was duly published in a newspaper as herein required; secondly, that the land is of the character contemplated in this act, unoccupied and without improvements, other than those excepted, either mining or agricultural, and that it apparently contains no valuable deposits of gold, silver, cinnabar, copper, or coal; and upon payment to the proper officer of the purchase money of said land, together with the fees of the register and the receiver, as provided for in case of mining claims in the twelfth section of the act approved May tenth, eighteen hundred and seventy-two, the applicant may be permitted to enter said tract, and, on the transmission to the General Land Office of the papers and testimony in the case, a patent shall issue thereon: *Provided*, That any person having a valid claim to any portion of the land may object, in writing, to the issuance of a patent to lands so held by him, stating the nature of his claim thereto; and evidence shall be taken and the merits of said objection shall be determined by the officers of the land office, subject to appeal, as in other land cases. Effect shall be given to the foregoing provisions of this act by regulations to be prescribed by the Commissioner of the General Land Office.

* * * * * * *

SEC. 6. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved, June 3, 1878. (20 Stat., 89.)

AN ACT To authorize the entry of lands chiefly valuable for building stone under the placer mining laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person authorized to enter lands under the mining laws of the United States may enter lands that are chiefly valuable for building stone under the provisions of the law in relation to placer mineral claims: *Provided*, That lands reserved for the benefit of the public schools or donated to any State shall not be subject to entry under this act.

SEC. 2. That an act entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and Washington Territory," approved June third, eighteen hundred and seventy-eight, be, and the

same is hereby, amended by striking out the words "States of California, Oregon, Nevada, and Washington Territory," where the same occur in the second and third lines of said act, and insert in lieu thereof the words "public-land States," the purpose of this act being to make said act of June third, eighteen hundred and seventy-eight, applicable to all the public-land States.

SEC. 3. That nothing in this act shall be construed to repeal section twenty-four of the act entitled "An act to repeal timber-culture laws, and for other purposes," approved March third, eighteen hundred and ninety-one.

Approved, August 4, 1892. (27 Stat., 348.)

AN ACT To provide for the location and satisfaction of outstanding military bounty land warrants and certificates of location under section three of the act approved June second, eighteen hundred and fifty-eight.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in addition to the benefits now given thereto by law, all unsatisfied military bounty land warrants under any act of Congress, and unsatisfied indemnity certificates of location under the act of Congress approved June second, eighteen hundred and fifty-eight, whether heretofore or hereafter issued, shall be receivable at the rate of $1.25 per acre in payment or part payment for any lands entered under the desert-land law of March third, eighteen hundred and eighty- [*seventy-*] seven, entitled "An act to provide for the sale of desert lands in certain States and Territories," and the amendments thereto, the timber-culture law of March third, eighteen hundred and seventy-three, entitled "An act to encourage the growth of timber on the Western prairies," and the amendments thereto; the timber and stone law of June third, eighteen hundred and seventy-eight, entitled "An act for the sale of timber lands in the States of California, Oregon, Nebraska, and Washington Territory," and the amendments thereto, or for lands which may be sold at public auction, except such lands as shall have been purchased from any Indian tribe within ten years last past.

Approved, December 13, 1894. (28 Stat., 594.)

AN ACT To abolish the distinction between offered and unoffered lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in cases arising from and after the passage of this act the distinction now obtaining in the statutes between offered and unoffered lands shall no longer be made in passing upon subsisting preemption claims, in disposing of the public lands under the homestead laws, and under the timber and stone law of June third, eighteen hundred and seventy-eight, as extended by the act of August fourth, eighteen hundred and ninety-two, but in all such cases hereafter arising the land in question shall be treated as unoffered, without regard to whether it may have actually been at some time offered or not.

* * * * * * *

Approved, May 18, 1898. (30 Stat., 418.)

AN ACT To amend the act of Congress of March eleventh, nineteen hundred and two, relating to homesteads.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an act entitled "An act to amend section twenty-two hundred and ninety-four of the Revised Statutes of the United States," approved March eleventh, nineteen hundred and two, be, and the same is hereby, amended to read as follows:

"That section twenty-two hundred and ninety-four of the Revised Statutes of the United States be, and the same is hereby, amended so as to read as follows:

" 'SEC. 2294. That hereafter all proofs, affidavits, and oaths of any kind whatsoever required to be made by applicants and entrymen under the homestead, preemption, timber-culture, desert-land, and timber and stone acts, may, in addition to those now authorized to take such affidavits, proofs, and oaths, be made before any United States commissioner or commissioner of the court exercising Federal jurisdiction in the Territory, or before the judge or clerk of any court of record in the county, parish, or land district in which the lands are situated: *Provided,* That in case the affidavits, proofs, and oaths hereinbefore mentioned be taken out of the county in which the land is located the applicant must show by affidavit, satisfactory to the Commissioner of the General Land Office, that it was taken before the nearest or most accessible officer qualified to take said affidavits, proofs, and oaths in the land districts in which the lands applied for are located; but such showing by affidavit need not be made in making final proof if the proof be taken in the town or city where the newspaper is published in which the final proof-notice is printed. The proof, affidavit, and oath, when so made and duly subscribed, or which may have heretofore been so made and duly subscribed, shall have the same force and effect as if made before the register and receiver, when transmitted to them with the fees and commissions allowed and required by law. That if any witness making such proof, or any applicant making such affidavit or oath, shall knowingly, willfully, or corruptly swear falsely to any material matter contained in said proofs, affidavits, or oaths he shall be deemed guilty of perjury, and shall be liable to the same pains and penalties as if he had sworn falsely before the register. That the fees for entries and for final proofs, when made before any other officer than the register and receiver, shall be as follows:

" 'For each affidavit, 25 cents.

" 'For each deposition of claimant or witness, when not prepared by the officer, 25 cents.

" 'For each deposition of claimant or witness, prepared by the officer, $1.

" 'Any officer demanding or receiving a greater sum for such service shall be guilty of a misdemeanor, and upon conviction shall be punished for each offense by a fine not exceeding $100.' "

Approved, March 4, 1904. (33 Stat., 59.)

AN ACT Making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

No person who shall, after the passage of this act, enter upon any of the public lands with a view to occupation, entry, or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, under all of said laws, but this limitation shall not operate to curtail the right of any person who has heretofore made entry or settlement on the public lands, or whose occupation, entry, or settlement is validated by this act: *Provided*, That in all patents for lands hereafter taken up under any of the land laws of the United States or on entries or claims validated by this act, west of the one hundredth meridian, it shall be expressed that there is reserved from the lands in said patent described a right of way thereon for ditches or canals constructed by the authority of the United States.

Approved, August 30, 1890. (26 Stat., 391.)

AN ACT To repeal the timber-culture laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

SEC. 17. That reservoir sites located or selected and to be located and selected under the provisions of "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and eighty-nine, and for other purposes," and amendments thereto, shall be restricted to and shall contain only so much land as is actually necessary for the construction and maintenance of reservoirs, excluding so far as practicable lands occupied by actual settlers at the date of the location of said reservoirs; and that the provisions of "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes," which reads as follows, viz: "No person who shall after the passage of this act enter upon any of the public lands with a view to occupation, entry, or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate under all said laws," shall be construed to include in the maximum amount of lands the title to which is permitted to be acquired by one person only agricultural lands, and not include lands entered or sought to be entered under mineral-land laws.

Approved, March 3, 1891. (26 Stat., 1095.)

The 320-acre limitation provided by the above acts of August 30, 1890 (26 Stat., 391), and March 3, 1891 (26 Stat., 1095), applies to timber and stone entries. (33 L. D., 539, 605.)

[Form A.]

Application and Sworn Statement.

[To be Made in Duplicate.]

Act June 3, 1878, and Acts Amendatory.

Departmental regulations approved November 30, 1908.

United States Land Office,

———— —, 19—.

I, ———— ————, hereby make application to purchase the ———— quarter of section ————, in township ———— and range ————, in the State of ————, and the timber thereon, at such value as may be fixed by appraisement, made under the authority of the Secretary of the Interior, under the act of June 3, 1878, commonly known as the "Timber and stone law," and acts amendatory thereof, and in support of this application I solemnly swear: That I am a native (or naturalized) citizen of the United States (or have declared my intention to become a citizen); that I am ———— years of age, and by occupation ————; that I did on ———— —, 19—, examine said land, and from my personal knowledge state that said land is unfit for cultivation and is valuable chiefly for its timber, and that to my best knowledge and belief, based upon said examination, the land is worth ———— dollars, and the timber thereon, which I estimate to be ———— feet, board measure, is worth ———— dollars, making a total value for the land and timber of ———— dollars and no more; that the land is uninhabited; that it contains no mining or other improvements, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper or coal, or other minerals, salt springs or deposits of salt; that I have made no other application under said acts; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself; that since August 30, 1890, I have not entered and acquired title to, nor am I now claiming, under an entry made under any of the nonmineral public land laws, an amount of land which, together with the land now applied for, will exceed in the aggregate 320 acres; that I am not a member of any association, or a stockholder in any corporation which has filed an application and sworn statement under said act; and that my post-office address is ————, at which place any notice affecting my rights under this application may be sent. I request that notice be furnished me for publication in the ———— newspaper, published at ————.

———— ————.

(Sign here, with full Christian name.)

I hereby certify that the foregoing affidavit was read to or by affiant in my presence before affiant affixed signature thereto; that

affiant is to me personally known, or has been satisfactorily identified before me by ——— ——— (give full name and post-office address); that I verily believe affiant to be a qualified applicant and the identical person hereinbefore described, and that said affidavit was duly subscribed and sworn to before me, at my office in ——— (town), ——— ——— (county and State), within the ——— land district, this ——— day of ———, 19—.

———.
(Official designation of officer.)

In case the applicant has been naturalized or has declared his intention to become a citizen, a certified copy of his certificate of naturalization or declaration of intention, as the case may be, must be furnished.

If the residence is in a city, the street and number must be given.

The newspaper designated must be one of general circulation, published nearest the land.

[Form B.]

Designation of Appraiser.

DEPARTMENTAL REGULATIONS APPROVED NOVEMBER 30, 1908.

———,
———, 19—.

———,
———.

SIR: You are designated to appraise the ——— quarter of section ———, township ——— —, and range ——— ———, which embraces a total of ——— acres. This land has been applied for by ——— ———, of ———, ———, under the timber and stone law. If you accept this designation, it will be your duty to personally visit and carefully examine each and every legal subdivision of the land, and the timber thereon, and to make a return through this office of the approximate quantity, quality, and the stumpage cash value of the various kinds of timber, the cash value of the land, and the total value of the land and timber. The total appraisement of the land and timber, however, must not amount to less than two dollars and fifty cents per acre for each acre appraised. Each legal subdivision must be separately appraised, or your return must show specifically that the appraisement applies to each legal subdivision.

Please inform me as soon as possible, and not later than ——— —, 19—, whether you will be able to do the work, and also advise me the approximate date the appraisal will be completed.

Very respectfully,

———,
Chief of Field Division, General Land Office.

[Form C.]

Appraisal, Timber and Stone Lands.

ACT OF MARCH 3, 1878, AND ACTS AMENDATORY.

DEPARTMENTAL REGULATIONS APPROVED NOVEMBER 30, 1908.

Lot or quarter-quarter.	Kind of timber.	Quality of timber.	Board feet per tract.	Stumpage value per M.	Character of soil.	Value of land exclusive of timber.	Total value of land and timber per acre.	Value of land and timber per tract.

Logging:

Timber must be logged by ——— (wagon haul, flume, river driving, or railroad).

Distance logs or lumber are to be transported to market, ——— miles. Approximate cost per M for transportation of logs or lumber to market, ——— dollars. Accessible? ——— (yes or no). Manufacturing possible on the ground? ——— (yes or no). Will there be improvement in logging facilities in the vicinity? ——— (yes or no). Will the demand for timber products be likely to increase in the neighborhood in the near future? ——— (yes or no). Nearest available quotations on stumpage for the species estimated ———.

———— —, 19—.

STATEMENT BY APPRAISER.

I have carefully examined each and every legal subdivision of the ——— quarter of section ———, township ———, range ———, and the timber thereon, and the estimates included in the above table and the foregoing statement were based on personal examination. I did not find any indication that the land or any part thereof contains any valuable mineral or coal deposits, and found no improvements or other evidence that any claim is being asserted under any of the public-land laws. I recommend that the application to purchase receive favorable action.

———— ————,
Appraiser.

ACTION ON APPRAISEMENT.

I have carefully examined the within appraisement and find no reason to believe that it is improperly made.

It is therefore, accordingly, APPROVED.

———— ————,
Chief of Field Division.

NOTE.—The approval of the appraisal by the chief of field division is final, and no action is required thereon by the register and receiver, except to note the appraised price on their records and to issue the

necessary notices. The register and receiver will, in the event of a disagreement between the appraiser and the chief of field division, if their concurrence with the appraiser, sign the following certificate:

UNITED STATES LAND OFFICE,

_____ __, ____.

_____ _____,

_____ _____.

We have carefully considered the within appraisement and the objections thereto urged by the chief of field division, and, believing that the appraisal is not materially high or low, the same is hereby approved.

_____ _____, *Register.*
_____ _____, *Receiver.*

NOTE.—If the register and receiver concur in the adverse objections of the chief of field division, they will proceed in accordance with paragraph 17 of the Regulations approved November 30, 1908.

SUGGESTIONS TO APPRAISER.

The appraiser should fill in each blank carefully and legibly. Under the head of kinds of timber he should state the species, such as "yellow pine," "white pine," "Douglas fir," "spruce," etc. If there are more than four leading species, all others should be under the head of "Miscellaneous," in the fifth space. The quality of the timber should be judged as far as possible at local sawmills, and should be indicated by such descriptive words as "excellent," "good," "fair," and "poor."

In the first column to the left the description of the land should be given.

[Form D.]

Notice to Applicant of Appraisement.

DEPARTMENTAL REGULATIONS APPROVED NOVEMBER 30, 1908.

UNITED STATES LAND OFFICE,

_____ _____,

_____ _____.

_____ _____,

_____, _____.

SIR: You are informed that the land, and the timber thereon, embraced in your timber and stone application No. _____, filed _____ ___, 19—, have been appraised in the total sum of _____ dollars.

You are therefore notified that your application for said lands will be dismissed without further notice, if you do not, within thirty days from service of this notice, deposit the appraised price of the land with the receiver of this office, or file your written protest against such appraisement, setting forth clearly and specifically your objec-

tion thereto, which protest must be sworn to by you, and corroborated by two competent, credible, and disinterested persons. The protest, if filed, must be accompanied by your application requesting that the land be reappraised at your expense, and you must deposit with the receiver the sum of ——— dollars, to be expended therefor, and you must indicate your consent that the amount so deposited may be expended for the reappraisement, without any claim on your part that any portion thereof, so expended, shall be returned or refunded to you.

If a reappraisement is made under your application, you will secure no right or privilege, except that of purchasing the lands at their reappraised value, if they are subject to sale and you are properly qualified.

Very respectfully,

——— ———, *Register.*
——— ———, *Receiver.*

[Form E.]

Reappraisement.

Form C may be modified so as to show that the action taken is a reappraisement instead of an original appraisement. The return of the appraising officer and indorsements by the chief of field division and the register and receiver must show that the action taken is a reappraisement, and it must be approved conjointly by the chief of field division and the register and receiver.

[Form F.]

Notice of Reappraisement.

DEPARTMENTAL REGULATIONS APPROVED NOVEMBER 30, 1908.

UNITED STATES LAND OFFICE,

——— ———,
——— ———.

——— ———,
——— ———.

SIR: You are advised that, pursuant to your application, the ——— quarter of section ——, township ——, and range ——, and the timber thereon, embraced in your timber and stone sworn statement, No. —, have been reappraised, and the price fixed at —— dollars, which amount you must deposit with the receiver of this office within thirty days from service of notice hereof, or your application will be finally disallowed without further notice.

Very respectfully.

——— ———, *Register.*
——— ———, *Receiver.*

[Form G.]

Notice of Application to Purchase Under Timber and Stone Laws.

DEPARTMENTAL REGULATIONS APPROVED NOVEMBER 30, 1908.

UNITED STATES LAND OFFICE,
———— ————, 19—.

Notice is hereby given that ———— ————, whose post-office address is ————, did on the ———— day of ————, 19—, file in this office his sworn statement and application No. — to purchase the ———— quarter of section ————, township ————, range ————, ———— M., and the timber thereon, under the provisions of the act of June 3, 1878, and acts amendatory, known as the "Timber and stone law," at such value as might be fixed by appraisement, and that, pursuant to such application, the land and timber thereon have been appraised, the timber estimated ———— board feet, at $———— per M, and the land $————, or combined value of the land and timber at $————; that said applicant will offer final proof in support of his application and sworn statement on the ———— day of ————, 19—, before ———— ————, at ————. Any person is at liberty to protest this purchase before entry, or initiate a contest at any time before patent issues, by filing a corroborated affidavit in this office, alleging facts which would defeat the entry.

———— ————, *Register.*

Where notice is issued under section 19, the register will modify the blank so as to show the valuation placed on the land and the timber thereon was that made by the applicant when he filed his sworn statement, instead of being fixed by appraisement.

[Form H.]

Timber or Stone Entry.

(4—370a.)

(Departmental regulations approved by the Secretary of the Interior, November 30, 1908.)

U. S. LAND OFFICE, ———— —, ——, No. ——.
Receipt No. ——.

FINAL PROOF.

I hereby solemnly swear that I am the identical ———— ————, who presented sworn statement and application, No. ————, for ———— ————, section ————, township ————, range ————, ———— meridian; that the land is valuable chiefly for its timber, and is, in its present condition, unfit for cultivation; that it is unoccupied and without improvements of any character, except for ditch or canal purposes, and that it apparently contains no valuable deposits of gold, silver, cinnabar, copper, coal, salines, or salt springs.

———— ————,
(Sign here, with full Christian name.)

———— ————.
(Post-office address.)

I hereby certify that the foregoing affidavit was read to or by [illegible]iant in my presence before affiant affixed signature thereto; that affiant is to me personally known, or has been satisfactorily identified before me by ——— ———; that I verily believe affiant to be a qualified applicant and the identical person hereinbefore described, and that said affidavit was duly subscribed and sworn to before me, at my office, in ———, ——— ———, within the ——— land district, this ——— day of ———, 19—.

(Give full name and post-office address.)

(Town.) (County and State.)

——— ———,

———.

(Official designation of officer.)

This form of proof can be accepted only where the land embraced in the application to purchase has been appraised or reappraised pursuant to the provisions of the Timber and Stone Regulations approved November 30, 1908, by the Secretary of the Interior.

Proof supporting applications to purchase under section 19 of the said regulations or under applications pending November 30, 1908, must be made by the applicant and two witnesses, as required by the regulations in force prior to December 1, 1908. (See Forms 4—370 and 4—371.)

○

superseded by Circ 851

See Circ. 450 + Circ 461

CIRCULAR No. 289

GENERAL LAND OFFICE

REGULATIONS

UNDER

TIMBER AND STONE LAW

(Act of June 3, 1878, and Acts Amendatory)

(APPROVED NOVEMBER 30, 1908)

REVISED AND APPROVED JANUARY 2, 1914

WASHINGTON
GOVERNMENT PRINTING OFFICE
1914

REGULATIONS UNDER TIMBER AND STONE LAW.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., November 30, 1908.

REGISTERS AND RECEIVERS,
United States Land Offices.

SIRS: The regulations under the act of June 3, 1878 (20 Stat., 89), and amendatory acts, commonly known as the timber and stone law, are hereby revised, modified, and reissued as follows:

PROVISION FOR APPRAISEMENT.

Any land subject to sale under the foregoing acts may, under the direction of the Commissioner of the General Land Office, upon application or otherwise, be appraised by smallest legal subdivisions, at their reasonable value, but at not less than $2.50 per acre; and hereafter no sales shall be made under said acts except as provided in these regulations.

CHARACTER OF LANDS SUBJECT TO ENTRY.

All unreserved, unappropriated, nonmineral, surveyed public lands within the public-land States, which are valuable chiefly for the timber or stone thereon and unfit for cultivation at the date of sale, may be sold under this act at their appraised value, but in no case at less than $2.50 per acre, in contiguous legal subdivisions upon which there is no existing mining claim or the improvements of any bona fide settler claiming under the public-land laws. The terms used in this statement may be defined substantially as follows for the purpose of construing and applying this law:

2. *Unreserved and unappropriated lands* are lands which are not included within any military, Indian, or other reservation, or in a national forest, or in a withdrawal by the Government for reclamation or other purposes, or which are not covered or embraced in any entry, location, selection, or filing which withdraws them from the public domain.

3. *Unoccupied lands* are lands belonging to the United States upon which there are no improvements belonging to any person who has initiated and is properly maintaining a valid mining or other claim

to such lands under the public-land laws. Abandoned and unused mines, shafts, tunnels, or buildings occupied by mere trespassers not seeking title under any law of the United States, do not prevent timber and stone entries if the land is otherwise capable of being so entered.

4. *Nonmineral lands* are such lands as are not known to contain any substance recognized and classed by standard authorities as mineral, in such quantities and of such qualities as would, with reasonable prospects of success in developing a paying mine thereon, induce a person of ordinary prudence to expend the time and money necessary to such development.

5. *Timber is defined* as trees of such kind and quantity, regardless of size, as may be used in constructing buildings, irrigation works, railroads, telegraph and telephone lines, tramways, canals, or fences, or in timbering shafts and tunnels or in manufacturing, but does not include trees suitable for fuel only.

6. *Lands valuable chiefly for timber,* but unfit for cultivation, are lands which are more valuable for timber than they are for cultivation in the condition in which they exist at the date of the application to purchase, and therefore include lands which could be made more valuable for cultivation by cutting and clearing them of timber. The relative values for timber or cultivation must be determined from conditions of the land existing at the date of the application to purchase.

7. Lands may be entered under the timber and stone acts, except as denied by special laws, in all of the public-land States; but such entries may not be made in Alaska.

BY WHOM ENTRIES MAY BE MADE.

8. One timber and stone entry may be made for not more than 160 acres (*a*) by any person who is a citizen of the United States, or who has declared his intention to become such citizen, if he is not under 21 years of age, and has not already exhausted his right by reason of a former application for an entry of that kind, or has not already acquired title to or is not claiming under the homestead or desert-land laws through settlement or entry made since August 30, 1890, any other lands which, with the land he applies for, would aggregate more than 320 acres; or (*b*) by an association of such persons; or (*c*) by a corporation, each of whose stockholders is so qualified.

9. A married woman may make entry if the laws of the State in which she applies permit married women to purchase and hold for themselves real estate, but she must make the entry for her own benefit, and not in the interest of her husband or any other person.

METHOD OF OBTAINING TITLE.

10. *Any qualified person* may obtain title under the timber and stone law by performing the following acts: (*a*) Personally examining the land desired; (*b*) presenting an application and sworn statement, accompanied by a filing fee of $10; (*c*) depositing with the receiver the appraised price of the land; (*d*) publishing notice of his application and proof; (*e*) making final proof.

11. *Examination of the land* must be made by the applicant in person not more than 30 days before the date of his application, in order that he may knowingly swear to its character and condition.

APPLICATION AND SWORN STATEMENT: DEPOSIT.

12. *The application and sworn statement must contain* the applicant's estimate of the timber, based on examination, and his valuation of the land and the timber thereon, by separate items. (See Form A, Appendix.) It must be executed in duplicate, after having been read to or by the applicant, in the presence of the officer administering the oath, and sworn to by him before such officer, who may be either the register or the receiver of the land district in which the land is located, a United States commissioner, a judge or a clerk of a court of record in the county or parish in which the land is situated, or one of these officers outside of that county or parish, if he is nearer and more accessible to the land than any other qualified officer and has his office or place of business within the land district in which the land is located. Each applicant must, at the time he presents his application and sworn statement, deposit with the receiver a filing fee of $10.

13. *Applications by associations or corporations must,* in addition to the facts recited in the foregoing statement, show that each person forming the association or holding stock in the corporation is qualified to make entry in his own right and that he is not a member of any other association or a stockholder in any other corporation which has filed an application or sworn statement for other lands under the timber and stone laws.

DISPOSITION OF APPLICATION.

14. *After application and deposit have been filed* in proper form, as required by these regulations, the register and receiver will at once forward one copy of the application to the chief of field division having jurisdiction of the land described, who, if he finds legal objection to the allowance of the application, will return it to them with report thereon. The register and receiver will, if they concur in an adverse recommendation of the chief of field division, dismiss or deny the application, subject to the applicant's right of appeal; but if they disagree with his recommendation they will forward the

record to the Commissioner of the General Land Office, with their report and opinion thereon, for such action as he may deem advisable.

If the chief of field division finds no such legal objection to the application, he shall cause the lands applied for to be appraised by an officer or employee of the Government. (Designation of Appraiser, Form B, Appendix.)

APPRAISEMENT: METHOD.

15. The officer or employee designated to make the appraisement must personally visit the lands to be appraised and thoroughly examine every legal subdivision thereof, and the timber thereon, and appraise separately the several kinds of timber at their stumpage value, and the land independent of the timber at its value at the time of appraisement, but the total appraisement of both land and timber must not be less than $2.50 per acre. He must, in making his report, consider the quantity, quality, accessibility, and any other elements of the value of the land and the timber thereon. The appraisement must be made by smallest legal subdivisions, or the report must show that the valuation of the land and the estimate of the timber apply to each and every subdivision appraised. (See Form C, Appendix.)

APPRAISEMENT: MANNER OF RETURN: APPROVAL.

16. The completed appraisement must be mailed or delivered personally to the chief of field division under whose supervision it was made, and not to the applicant. Each appraisement upon which an entry is to be allowed must be approved, respectively or conjointly, as provided in these regulations, by the chief of field division under whose supervision it was made, by the register and receiver who allow the entry, or by the Commissioner of the General Land Office.

APPRAISEMENT: DISAGREEMENT BETWEEN APPRAISING AND APPROVING OFFICERS: HOW DETERMINED.

17. The chief of field division will return to the appraiser, with his objections, an appraisement which he deems materially low or high, and the appraiser shall within 20 days from the receipt thereof, resubmit the papers, with such modifications or explanations as he may deem advisable or proper, upon receipt of which the chief of field division will either approve the schedule as then submitted, or forward the papers to the register and receiver, with his memorandum of objection. The register and receiver will thereupon consider the case. If they approve the appraisement, they will sign the certificate appended thereto, and advise the chief of field division thereof. If the register and receiver approve the objection of the chief of field

division, they will so indicate, and if the appraising officer is an employee of the Interior Department, under the supervision of the chief of field division, they will return the papers to the chief of field division, who will thereupon order a new appraisement by a different officer. If, however, the register and receiver approve the objection of the chief of field division, when the appraiser is an officer of another bureau of this department, or of another department, they will forward the record of the case to the Commissioner of the General Land Office, who will then determine the controversy.

APPRAISEMENT: NOTATION AND EFFECT THEREOF.

18. *When the appraisement is completed,* the register and receiver will note the price on their records, and thereafter the land will be sold at such price only, under the provisions of the timber and stone acts, unless the land shall have been reappraised in the manner provided herein.

FAILURE TO APPRAISE: RIGHTS OF APPLICANT: HOW TERMINATED.

19. Unless the land department, as hereinbefore provided, or otherwise, as directed by the Secretary of the Interior, shall appraise any lands applied for under these regulations within nine months from the date of such application, the applicant may, without notice, within 30 days thereafter, deposit the amount, not less than $2.50 per acre, specified in his application as the reasonable value of the land and the timber thereon, with the receiver, if appraisement has not been filed prior to such deposit, and thereupon will be allowed to proceed with his application to purchase as though the appraisement had been regularly made. The failure of the applicant to make the required deposit within 30 days after the expiration of the nine months' appraisement period will terminate his rights without notice.

NOTICE OF APPRAISEMENT: PAYMENT OR PROTEST.

20. If the appraisement shows the land, or any subdivision thereof, to be subject to entry, the register and receiver will note its appraised price on their records, and will immediately inform the applicant that he must, within 30 days from service of notice, deposit with the receiver, either in lawful money, in post-office money orders payable to the receiver, in certified checks drawn in favor of the receiver which can be cashed without cost to the Government, or as provided in paragraph 36 hereof, the appraised price of the land, or of said part, and the timber thereon, or within said time file his protest against the appraisement, depositing with the receiver a sum sufficient to de-

fray the expenses of a reappraisement (which sum, not less than $100, must be fixed by the register and receiver and specified in the notice to the applicant), together with his application for reappraisement at his own expense. (See Form D, Appendix.)

If the register and receiver reject the application as to part or all of the land, upon the ground that the appraisement shows it not to be subject to entry, applicant may within said 30 days file his affidavit, corroborated by two witnesses, setting forth facts which tend to disprove the appraisement, and thereupon a hearing shall be ordered to determine the facts, notice thereof being given to the chief of field division.

Notice must be given by registered letter and the envelope should be marked for return if not delivered within 30 days. If notice be returned after being held in the post office for 30 days, such proceedings will constitute constructive notice for 30 days.

After 30 days' notice has been had, if no deposit of the price has been made, or protest against the appraisement has been filed as to lands found subject to entry, and no application for hearing, or appeal, has been filed as to lands found not subject to entry, the register and receiver shall close the case on their records, all rights under the application being terminated without notice.

OBJECTION TO APPRAISEMENT: APPLICATION FOR REAPPRAISEMENT.

21. Any applicant filing his protest against an appraisement, and his application for reappraisement, must support it by his affidavit, corroborated by two competent, credible, and disinterested persons, in which he must set forth specifically his objections to the appraisement. He must indicate his consent that the amount deposited by him for the reappraisement, or such part thereof as is necessary, may be expended therefor, without any claim on his part for a refund or return of the money thus expended.

REAPPRAISEMENT.

22. *Upon the receipt of a protest against appraisement* and application for reappraisement conforming to the regulations herein, the register and receiver will transmit such protest and application to the chief of field division, who will cause the reappraisement to be made by some officer other than the one making the original appraisement. The procedure provided herein for appraisement will be followed for reappraisement, except the latter, if differing from the former, must, to give it effect, be approved both by the chief of field division and the register and receiver, or, in case of disagreement between them, by the Commissioner of the General Land Office. (Form E, Appendix.)

NOTICE OF APPRAISEMENT.

23. When a reappraisement is finally effected, the register and receiver will note the reappraised price on their records, and at once notify the applicant that he must, within 30 days from the date of notice, deposit with the receiver the amount fixed by such reappraisement for the sale of the land, or thereafter, and without notice, forfeit all rights under his application. (Form F, Appendix.)

COST OF MAKING REAPPRAISEMENT.

24. The officer or employee of the United States making the reappraisement shall be paid from the amount deposited with the receiver by the applicant therefor, the salary, per diem, and other expenses to which he would have been entitled from the Government, in the case of an original appraisement, for his serivces for the time he was engaged in making and returning the reappraisement. The receiver will, out of the money deposited by the applicant, pay such compensation including reasonable expenses for subsistence, transportation, and necessary assistants; and the officer will deduct from his expense account with the Government the amount which he has received from the receiver for such services. The receiver will return to the applicant the amount, if any, remaining on deposit with him after paying the expenses of said reappraisement.

FINAL PROOF.

25. After the appraisement or reappraisement and deposit of purchase money and fee have been made the register will fix a time and place for the offering of final proof, and name the officer before whom it shall be offered and post a notice thereof in the land office and deliver a copy of the notice to the applicant, to be by him and at his expense published in the newspaper of accredited standing and general circulation published nearest the land applied for. This notice must be continuously published in the paper for 60 days prior to the date named therein as the day upon which final proof must be offered. (Form G, Appendix.)

TIME, PLACE, AND METHOD OF MAKING FINAL PROOF.

26. Final proof should be made at the time and place mentioned in the notice, and, as a part thereof, evidence of publication, as required by the previous paragraph, should also be filed. If final proof is not made on that day or within 10 days thereafter, the applicant may lose his right to complete entry of the land. Upon satisfactory showing, however, explaining the cause of his failure to make the proof as above required, and in the absence of adverse claim, the Commissioner of the General Land Office may authorize him to readvertise

and complete entry under his previous application. (See Form H, Appendix.)

FINAL ENTRY.

27. After an appraisement or reappraisement has been approved, the payments made, and satisfactory proof submitted in any case as required by these regulations, the register and receiver will, if no protest or contest is pending, allow a final entry.

GENERAL PROVISIONS.

CONTESTS AND PROTESTS.

28. Protest may be filed at any time before an entry is allowed, and contest may be filed at any time before patent issues, by any person who will furnish the register and receiver with a corroborated affidavit alleging facts sufficient to cause the cancellation of the entry, and will pay the cost of contest.

FALSE SWEARING—FORFEITURE.

29. If an applicant swear falsely in his application or sworn statement, he will be liable to indictment and punishment for perjury; and if he be guilty of false swearing or attempted fraud in connection with his efforts to obtain title, his application and entry will be disallowed and all moneys paid by him will be forfeited to the Government, and his rights under the timber and stone acts will be exhausted.

EFFECT OF APPLICATION TO PURCHASE.

30. *After an application has been presented* hereunder no other person will be permitted to file on the land embraced therein under any public-land law until such application shall have been finally disposed of adverse to the applicant.

31. *Lands appraised or reappraised* hereunder, but not sold, may, upon the final disallowance of the application, be entered by any qualified person, under the provisions of the timber and stone laws, at its appraised or reappraised value, if subject thereto.

32. *Lands applied for but not* appraised and not entered under these regulations may, when the rights of the applicant are finally terminated, be disposed of as though such application had not been filed.

33. *Any lands which have not been* reappraised may be reappraised upon the request of an applicant therefor under these regulations who complies with the requirements of section 21 hereof.

34. *An applicant securing a reappraisement* under these regulations shall acquire thereby no right or privilege except that of pur-

chasing the lands at their reappraised value, if he is qualified, and if the lands are subject to sale under his application; and he must otherwise comply with these regulations, but shall not, in any event, be entitled to the return of any money deposited by him and expended in such reappraisement.

35. *The Commissioner of the General Land Office* may at any time direct the reappraisement of any tract or tracts of public lands, when, in his opinion, the conditions warrant such action.

36. *Unsatisfied military bounty land warrants* under any act of Congress and unsatisfied indemnity certificates of location under the act of Congress approved June 2, 1858, properly assigned to the applicant, shall be receivable as cash in payment or part payment for lands purchased hereunder at the rate of $1.25 per acre.

37. These regulations shall be effective on and after December 1, 1908, but all applications to purchase legally pending on November 30, 1908, may be completed by compliance with the regulations in force at the time such applications were filed.

38. The forms mentioned herein and included in the appendix hereto shall be a part of these regulations.

ENTRY OF STONE LANDS.

39. The foregoing regulations apply to entries of lands chiefly valuable for stone, and the forms herein prescribed can be modified in such manner as may be necessary to the making of entries of stone lands.

FORMER REGULATIONS REVOKED.

40. All former regulations, decisions, and practices in conflict with these regulations are hereby revoked.

Revised January 2, 1914.

Very respectfully, CLAY TALLMAN, *Commissioner.*

Revision approved January 2, 1914:

ANDRIEUS A. JONES,

First Assistant Secretary.

APPENDIX.

Acts relating to Timber and Stone Entries.

AN ACT For the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That surveyed public lands of the United States within the States of California, Oregon, and Nevada, and in Washington Territory, not included within military, Indian, or other reservations of the United States, valuable chiefly for timber, but unfit for cultivation, and which have not been offered at public sale, according to law, may be sold to citizens of the United States, or persons who have declared their intention to become such, in quantities not exceeding one hundred and sixty acres to any one person or association of persons, at the minimum price of two dollars and fifty cents per acre; and lands valuable chiefly for stone may be sold on the same terms as timber lands: *Provided,* That nothing herein contained shall defeat or impair any bona fide claim under any law of the United States, or authorize the sale of any mining claim, or the improvements of any bona fide settler, or lands containing gold, silver, cinnabar, copper, or coal, or lands selected by the said States under any law of the United States donating lands for internal improvements, education, or other purposes: *And provided further,* That none of the rights conferred by the act approved July twenty-sixth, eighteen hundred and sixty-six, entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes," shall be abrogated by this act; and all patents granted shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under and by the provisions of said act; and such rights shall be expressly reserved in any patent issued under this act.

SEC. 2. That any person desiring to avail himself of the provisions of this act shall file with the register of the proper district a written statement in duplicate, one of which is to be transmitted to the General Land Office, designating by legal subdivisions the particular tract of land he desires to purchase, setting forth that the same is unfit for cultivation, and valuable chiefly for its timber or stone; that it is uninhabited; contains no mining or other improvements, except for ditch or canal purposes, where any such do exist, save such as were made by or belonged to the applicant, nor, as deponent verily believes, any valuable deposit of gold, silver, cinnabar, copper, or coal; that deponent has made no other application under this act; that he does not apply to purchase the same on speculation, but in good faith to appropriate it to his own exclusive use and benefit, and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whatsoever, by which the title which he might acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person except himself; which statement must be verified by the oath of the applicant before the register or the receiver of the land office

within the district where the land is situated; and if any person taking such oath shall swear falsely in the premises, he shall be subject to all the pains and penalties of perjury, and shall forfeit the money which he may have paid for said lands, and all right and title to the same; and any grant or conveyance which he may have made, except in the hands of bona fide purchasers, shall be null and void.

SEC. 3. That upon the filing of said statement, as provided in the second section of this act, the register of the land office shall post a notice of such application, embracing a description of the land by legal subdivisions, in his office, for a period of sixty days, and shall furnish the applicant a copy of the same for publication, at the expense of such applicant, in a newspaper published nearest the location of the premises, for a like period of time; and after the expiration of said sixty days, if no adverse claim shall have been filed, the person desiring to purchase shall furnish to the register of the land office satisfactory evidence, first, that said notice of the application prepared by the register as aforesaid was duly published in a newspaper as herein required; secondly, that the land is of the character contemplated in this act, unoccupied and without improvements, other than those excepted, either mining or agricultural, and that it apparently contains no valuable deposits of gold, silver, cinnabar, copper, or coal; and upon payment to the proper officer of the purchase money of said land, together with the fees of the register and the receiver, as provided for in case of mining claims in the twelfth section of the act approved May tenth, eighteen hundred and seventy-two, the applicant may be permitted to enter said tract, and, on the transmission to the General Land Office of the papers and testimony in the case, a patent shall issue thereon: *Provided,* That any person having a valid claim to any portion of the land may object, in writing, to the issuance of a patent to lands so held by him, stating the nature of his claim thereto; and evidence shall be taken and the merits of said objection shall be determined by the officers of the land office, subject to appeal, as in other land cases. Effect shall be given to the foregoing provisions of this act by regulations to be prescribed by the Commissioner of the General Land Office.

* * * * * * *

SEC. 6. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved, June 3, 1878. (20 Stat., 89.)

AN ACT To authorize the entry of lands chiefly valuable for building stone under the placer mining laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person authorized to enter lands under the mining laws of the United States may enter lands that are chiefly valuable for building stone under the provisions of the law in relation to placer mineral claims: *Provided,* That lands reserved for the benefit of the public schools or donated to any State shall not be subject to entry under this act.

SEC. 2. That an act entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and Washington Territory," approved June third, eighteen hundred and seventy-eight, be, and the

same is hereby, amended by striking out the words "States of California, Oregon, Nevada, and Washington Territory," where the same occur in the second and third lines of said act, and insert in lieu thereof the words "public-land States," the purpose of this act being to make said act of June third, eighteen hundred and seventy-eight, applicable to all the public-land States.

SEC. 3. That nothing in this act shall be construed to repeal section twenty-four of the act entitled "An act to repeal timber-culture laws, and for other purposes," approved March third, eighteen hundred and ninety-one.

Approved, August 4, 1892. (27 Stat., 348.)

AN ACT To provide for the location and satisfaction of outstanding military bounty land warrants and certificates of location under section three of the act approved June second, eighteen hundred and fifty-eight.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in addition to the benefits now given thereto by law, all unsatisfied military bounty land warrants under any act of Congress, and unsatisfied indemnity certificates of location under the act of Congress approved June second, eighteen hundred and fifty-eight, whether heretofore or hereafter issued, shall be receivable at the rate of $1.25 per acre in payment or part payment for any lands entered under the desert-land law of March third, eighteen hundred and eighty- [*seventy-*] seven, entitled "An act to provide for the sale of desert lands in certain States and Territories," and the amendments thereto, the timber-culture law of March third, eighteen hundred and seventy-three, entitled "An act to encourage the growth of timber on the Western prairies," and the amendments thereto; the timber and stone law of June third, eighteen hundred and seventy-eight, entitled "An act for the sale of timber lands in the States of California, Oregon, Nebraska, and Washington Territory," and the amendments thereto, or for lands which may be sold at public auction, except such lands as shall have been purchased from any Indian tribe within ten years last past.

Approved, December 13, 1894. (28 Stat., 594.)

AN ACT To abolish the distinction between offered and unoffered lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in cases arising from and after the passage of this act the distinction now obtaining in the statutes between offered and unoffered lands shall no longer be made in passing upon subsisting preemption claims, in disposing of the public lands under the homestead laws, and under the timber and stone law of June third, eighteen hundred and seventy-eight, as extended by the act of August fourth, eighteen hundred and ninety-two, but in all such cases hereafter arising the land in question shall be treated as unoffered, without regard to whether it may have actually been at some time offered or not.

* * * * * * *

Approved, May 18, 1898. (30 Stat., 418.)

AN ACT To amend the act of Congress of March eleventh, nineteen hundred and two, relating to homesteads.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an act entitled "An act to amend section twenty-two hundred and ninety-four of the Revised Statutes of the United States," approved March eleventh, nineteen hundred and two, be, and the same is hereby, amended to read as follows:

"That section twenty-two hundred and ninety-four of the Revised Statutes of the United States be, and the same is hereby, amended so as to read as follows:

"'SEC. 2294. That hereafter all proofs, affidavits, and oaths of any kind whatsoever required to be made by applicants and entrymen under the homestead, preemption, timber-culture, desert-land, and timber and stone acts, may, in addition to those now authorized to take such affidavits, proofs, and oaths, be made before any United States commissioner or commissioner of the court exercising Federal jurisdiction in the Territory, or before the judge or clerk of any court of record in the county, parish, or land district in which the lands are situated: *Provided,* That in case the affidavits, proofs, and oaths hereinbefore mentioned be taken out of the county in which the land is located the applicant must show by affidavit, satisfactory to the Commissioner of the General Land Office, that it was taken before the nearest or most accessible officer qualified to take said affidavits, proofs, and oaths in the land districts in which the lands applied for are located; but such showing by affidavit need not be made in making final proof if the proof be taken in the town or city where the newspaper is published in which the final proof-notice is printed. The proof, affidavit, and oath, when so made and duly subscribed, or which may have heretofore been so made and duly subscribed, shall have the same force and effect as if made before the register and receiver, when transmitted to them with the fees and commissions allowed and required by law. That if any witness making such proof, or any applicant making such affidavit or oath, shall knowingly, willfully, or corruptly swear falsely to any material matter contained in said proofs, affidavits, or oaths he shall be deemed guilty of perjury, and shall be liable to the same pains and penalties as if he had sworn falsely before the register. That the fees for entries and for final proofs, when made before any other officer than the register and receiver, shall be as follows:

"'For each affidavit, 25 cents.

"'For each deposition of claimant or witness, when not prepared by the officer, 25 cents.

"'For each deposition of claimant or witness, prepared by the officer, $1.

"'Any officer demanding or receiving a greater sum for such service shall be guilty of a misdemeanor, and upon conviction shall be punished for each offense by a fine not exceeding $100.'"

Approved, March 4, 1904. (33 Stat., 59.)

AN ACT Making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

No person who shall, after the passage of this act, enter upon any of the public lands with a view to occupation, entry, or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, under all of said laws, but this limitation shall not operate to curtail the right of any person who has heretofore made entry or settlement on the public lands, or whose occupation, entry, or settlement is validated by this act: *Provided,* That in all patents for lands hereafter taken up under any of the land laws of the United States or on entries or claims validated by this act, west of the one hundredth meridian, it shall be expressed that there is reserved from the lands in said patent described a right of way thereon for ditches or canals constructed by the authority of the United States.

Approved, August 30, 1890. (26 Stat., 391.)

AN ACT To repeal the timber-culture laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

SEC. 17. That reservoir sites located or selected and to be located and selected under the provisions of "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and eighty-nine, and for other purposes," and amendments thereto, shall be restricted to and shall contain only so much land as is actually necessary for the construction and maintenance of reservoirs, excluding so far as practicable lands occupied by actual settlers at the date of the location of said reservoirs; and that the provisions of "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes," which reads as follows, viz: "No person who shall after the passage of this act enter upon any of the public lands with a view to occupation, entry, or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate under all said laws," shall be construed to include in the maximum amount of lands the title to which is permitted to be acquired by one person only agricultural lands, and not include lands entered or sought to be entered under mineral-land laws.

Approved, March 3, 1891. (26 Stat., 1095.)

The 320-acre limitation provided by the above acts of August 30, 1890 (26 Stat., 391), and March 3, 1891 (26 Stat., 1095), applies to timber and stone entries. (33 L. D., 539, 605.)

[Form A.]

Application and Sworn Statement.

[To be Made in Duplicate.]

Act June 3, 1878, and Acts Amendatory.

DEPARTMENTAL REGULATIONS APPROVED NOVEMBER 30, 1908.

United States Land Office,

———— —, 19—.

I, ———— ————, hereby make application to purchase the ———— quarter of section ————, in township ———— and range ————, in the State of ————, and the timber thereon, at such value as may be fixed by appraisement, made under the authority of the Secretary of the Interior, under the act of June 3, 1878, commonly known as the "Timber and stone law," and acts amendatory thereof, and in support of this application I solemnly swear: That I am a native (or naturalized) citizen of the United States (or have declared my intention to become a citizen); that I am ———— years of age, and by occupation ————; that I did on ———— —, 19—, examine said land, and from my personal knowledge state that said land is unfit for cultivation and is valuable chiefly for its timber, and that to my best knowledge and belief, based upon said examination, the land is worth ———— dollars, and the timber thereon, which I estimate to be ———— feet, board measure, is worth ———— dollars, making a total value for the land and timber of ———— dollars and no more; that the land is uninhabited; that it contains no mining or other improvements, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper or coal, or other minerals, salt springs or deposits of salt; that I have made no other application under said acts; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself; that since August 30, 1890, I have not entered and acquired title to, nor am I now claiming, under an entry made under any of the nonmineral public land laws, an amount of land which, together with the land now applied for, will exceed in the aggregate 320 acres; that I am not a member of any association, or a stockholder in any corporation which has filed an application and sworn statement under said act; and that my post-office address is ————, at which place any notice affecting my rights under this application may be sent. I request that notice be furnished me for publication in the ———— newspaper, published at ————.

———— ————.

(Sign here, with full Christian name.)

I hereby certify that the foregoing affidavit was read to or by affiant in my presence before affiant affixed signature thereto; that

affiant is to me personally known, or has been satisfactorily identified before me by ——— ——— (give full name and post-office address); that I verily believe affiant to be a qualified applicant and the identical person hereinbefore described, and that said affidavit was duly subscribed and sworn to before me, at my office in ——— (town), ——— ——— (county and State), within the ——— land district, this ——— day of ———, 19—.

———.

(Official designation of officer.)

In case the applicant has been naturalized or has declared his intention to become a citizen, a certified copy of his certificate of naturalization or declaration of intention, as the case may be, must be furnished.

If the residence is in a city, the street and number must be given.

The newspaper designated must be one of general circulation, published nearest the land.

[Form B.]

Designation of Appraiser.

DEPARTMENTAL REGULATIONS APPROVED NOVEMBER 30, 1908.

———,

——— —, 19—.

———,

———.

SIR: You are designated to appraise the ——— quarter of section ———, township ——— —, and range ——— ———, which embraces a total of ——— acres. This land has been applied for by ——— ———, of ———, ———, under the timber and stone law. If you accept this designation, it will be your duty to personally visit and carefully examine each and every legal subdivision of the land, and the timber thereon, and to make a return through this office of the approximate quantity, quality, and the stumpage cash value of the various kinds of timber, the cash value of the land, and the total value of the land and timber. The total appraisement of the land and timber, however, must not amount to less than two dollars and fifty cents per acre for each acre appraised. Each legal subdivision must be separately appraised, or your return must show specifically that the appraisement applies to each legal subdivision.

Please inform me as soon as possible, and not later than ——— —, 19—, whether you will be able to do the work, and also advise me the approximate date the appraisal will be completed.

Very respectfully,

———,

Chief of Field Division, General Land Office.

[Form C.]

Appraisal, Timber and Stone Lands.

ACT OF MARCH 3, 1878, AND ACTS AMENDATORY.

DEPARTMENTAL REGULATIONS APPROVED NOVEMBER 30, 1908.

Lot or quarter-quarter.	Kind of timber.	Quality of timber.	Board feet per tract.	Stumpage value per M.	Character of soil.	Value of land exclusive of timber.	Total value of land and timber per acre.	Value of land and timber per tract.

Logging:

Timber must be logged by ——— (wagon haul, flume, river driving, or railroad).

Distance logs or lumber are to be transported to market, ——— miles. Approximate cost per M for transportation of logs or lumber to market,——— dollars. Accessible? ——— (yes or no). Manufacturing possible on the ground? ——— (yes or no). Will there be improvement in logging facilities in the vicinity? ——— (yes or no). Will the demand for timber products be likely to increase in the neighborhood in the near future? ——— (yes or no). Nearest available quotations on stumpage for the species estimated ———.

———— —, 19—.

STATEMENT BY APPRAISER.

I have carefully examined each and every legal subdivision of the ——— quarter of section ———, township ———, range ———, and the timber thereon, and the estimates included in the above table and the foregoing statement were based on personal examination. I did not find any indication that the land or any part thereof contains any valuable mineral or coal deposits, and found no improvements or other evidence that any claim is being asserted under any of the public-land laws. I recommend that the application to purchase receive favorable action.

———— ————,
Appraiser.

———

ACTION ON APPRAISEMENT.

I have carefully examined the within appraisement and find no reason to believe that it is improperly made.

It is therefore, accordingly, APPROVED.

———— ————,
Chief of Field Division.

NOTE.—The approval of the appraisal by the chief of field division is final, and no action is required thereon by the register and receiver, except to note the appraised price on their records and to issue the

necessary notices. The register and receiver will, in the event of a disagreement between the appraiser and the chief of field division, and their concurrence with the appraiser, sign the following certificate:

UNITED STATES LAND OFFICE,

_____ __, ____.

_____ _____,

_____ _____.

We have carefully considered the within appraisement and the objections thereto urged by the chief of field division, and, believing that the appraisal is not materially high or low, the same is hereby approved.

_____ _____, *Register.*
_____ _____, *Receiver.*

NOTE.—If the register and receiver concur in the adverse objections of the chief of field division, they will proceed in accordance with paragraph 17 of the Regulations approved November 30, 1908.

SUGGESTIONS TO APPRAISER.

The appraiser should fill in each blank carefully and legibly. Under the head of kinds of timber he should state the species, such as "yellow pine," "white pine," "Douglas fir," "spruce," etc. If there are more than four leading species, all others should be under the head of "Miscellaneous," in the fifth space. The quality of the timber should be judged as far as possible at local sawmills, and should be indicated by such descriptive words as "excellent," "good," "fair," and "poor."

In the first column to the left the description of the land should be given.

[Form D.]

Notice to Applicant of Appraisement.

DEPARTMENTAL REGULATIONS APPROVED NOVEMBER 30, 1908.

UNITED STATES LAND OFFICE,

_____ _____,

_____ _____.

_____ _____,

_____, _____.

SIR: You are informed that the land, and the timber thereon, embraced in your timber and stone application No. _____, filed _____ ____, 19—, have been appraised in the total sum of _____ dollars.

You are therefore notified that your application for said lands will be dismissed without further notice, if you do not, within thirty days from service of this notice, deposit the appraised price of the land with the receiver of this office, or file your written protest against such appraisement, setting forth clearly and specifically your objec-

tion thereto, which protest must be sworn to by you, and corroborated by two competent, credible, and disinterested persons. The protest, if filed, must be accompanied by your application requesting that the land be reappraised at your expense, and you must deposit with the receiver the sum of ——— dollars, to be expended therefor, and you must indicate your consent that the amount so deposited may be expended for the reappraisement, without any claim on your part that any portion thereof, so expended, shall be returned or refunded to you.

If a reappraisement is made under your application, you will secure no right or privilege, except that of purchasing the lands at their reappraised value, if they are subject to sale and you are properly qualified.

Very respectfully,

——— ———, *Register.*
——— ———, *Receiver.*

[Form E.]

Reappraisement.

Form C may be modified so as to show that the action taken is a reappraisement instead of an original appraisement. The return of the appraising officer and indorsements by the chief of field division and the register and receiver must show that the action taken is a reappraisement, and it must be approved conjointly by the chief of field division and the register and receiver.

[Form F.]

Notice of Reappraisement.

DEPARTMENTAL REGULATIONS APPROVED NOVEMBER 30, 1908.

UNITED STATES LAND OFFICE,
——— ———,
——— ———.

——— ———,
——— ———.

SIR: You are advised that, pursuant to your application, the ——— quarter of section ——, township ——, and range ——, and the timber thereon, embraced in your timber and stone sworn statement, No. —, have been reappraised, and the price fixed at —— dollars, which amount you must deposit with the receiver of this office within thirty days from service of notice hereof, or your application will be finally disallowed without further notice.

Very respectfully.

——— ———, *Register.*
——— ———, *Receiver.*

[Form G.]

Notice of Application to Purchase Under Timber and Stone Laws.

DEPARTMENTAL REGULATIONS APPROVED NOVEMBER 30, 1908.

UNITED STATES LAND OFFICE,
——— ———, —, 19—.

Notice is hereby given that ——— ———, whose post-office address is ———, did on the ——— day of ———, 19—, file in this office his sworn statement and application No. — to purchase the ——— quarter of section ———, township ———, range ———, ——— M., and the timber thereon, under the provisions of the act of June 3, 1878, and acts amendatory, known as the "Timber and stone law," at such value as might be fixed by appraisement, and that, pursuant to such application, the land and timber thereon have been appraised, the timber estimated ——— board feet, at $——— per M, and the land $———, or combined value of the land and timber at $———; that said applicant will offer final proof in support of his application and sworn statement on the ——— day of ———, 19—, before ——— ———, at ———. Any person is at liberty to protest this purchase before entry, or initiate a contest at any time before patent issues, by filing a corroborated affidavit in this office, alleging facts which would defeat the entry.

——— ———, *Register.*

Where notice is issued under section 19, the register will modify the blank so as to show the valuation placed on the land and the timber thereon was that made by the applicant when he filed his sworn statement, instead of being fixed by appraisement.

[Form H.]

Timber or Stone Entry.

(4—370a.)

(Departmental regulations approved by the Secretary of the Interior, November 30, 1908.)

U. S. LAND OFFICE, ——— —, ——, No. ——.
Receipt No. ——.

FINAL PROOF.

I hereby solemnly swear that I am the identical ——— ———, who presented sworn statement and application, No. ———, for ——— ———, section ———, township ———, range ———, ——— meridian; that the land is valuable chiefly for its timber, and is, in its present condition, unfit for cultivation; that it is unoccupied and without improvements of any character, except for ditch or canal purposes, and that it apparently contains no valuable deposits of gold, silver, cinnabar, copper, coal, salines, or salt springs.

——— ———,
(Sign here, with full Christian name.)

———.
(Post-office address.)

I hereby certify that the foregoing affidavit was read to or by affiant in my presence before affiant affixed signature thereto; that affiant is to me personally known, or has been satisfactorily identified before me by ——— ———; that I verily believe affiant to be a qualified applicant and the identical person hereinbefore described, and that said affidavit was duly subscribed and sworn to before me, at my office, in ———, ——— ———, within the ——— land district, this ——— day of ———, 19—.

(Give full name and post-office address.)

(Town.) (County and State.)

——— ———,

———.

(Official designation of officer.)

This form of proof can be accepted only where the land embraced in the application to purchase has been appraised or reappraised pursuant to the provisions of the Timber and Stone Regulations approved November 30, 1908, by the Secretary of the Interior.

Proof supporting applications to purchase under section 19 of the said regulations or under applications pending November 30, 1908, must be made by the applicant and two witnesses, as required by the regulations in force prior to December 1, 1908. (See Forms 4—370 and 4—371.)

○

In reply please refer to Circular No. 291.

Examinations as to bona fides of applications for survey of public lands.

DEPARTMENT OF THE INTERIOR
General Land Office
Washington

January 15, 1914.

U. S. Surveyors General.

Sirs:

Hereafter the applications for surveys of public lands will be referred to the Assistant Supervisor of Surveys of each district for examination under the direction of the supervisor, as to the bona fides of applicants, and applications now in the hands of the field service agents will be withdrawn by orders from this office and returned to you for transmission to the Assistant Supervisor of Surveys, who will report upon the bona fides from time to time as he may be able to examine them.

It is expected that the major part of the examinations will be made by the U. S. surveyors under the supervision of the Assistant Supervisor, who will be responsible for the conduct of the investigations and who will report his findings to this office upon the blank form usually employed for this purpose.

Very respectfully,

CLAY TALLMAN,

Commissioner.

1-9-JMB

In reply please refer to Circular No. 292.

"FS" Examinations as to bona fides of applications for survey of public lands.

DEPARTMENT OF THE INTERIOR

General Land Office

Washington January 15, 1914.

Chiefs of Field Divisions.

Sirs:

Hereafter the work of investigating the bona fides of applicants for survey will be performed under the direction of the Supervisor of Surveys by the Assistant Supervisor in each surveying district, and you are requested to turn over to the proper U. S. Surveyor General the applications in your hands which have not yet been reported upon by the field agents.

In cases where you have knowledge that the investigation is being made or will be undertaken within a few days after the receipt of this instruction and the field agent is in the vicinity of the lands to be examined, you will allow a reasonable time to enable him to proceed with the examination, provided that a greater economy of time will result in receiving his report than would be the case were the applications withdrawn at once and another examiner selected.

Very respectfully,

CLAY TALLMAN,

Commissioner.

1-91JMB

In reply please refer to Circular No. 293.

DEPARTMENT OF THE INTERIOR

General Land Office

Washington

January 15, 1914.

: Examination as to bona fides
: of applicants for the survey
: of public lands.

Assistant Supervisors of Surveys.

Sirs:

Hereafter all applications for survey filed with U. S. Surveyors General by settlers upon unsurveyed lands, except within national forests, will be promptly referred to the Assistant Supervisor of Surveys for the district in which the lands are located, who under the direction of the Supervisor, will make examinations and report to this office as to the bona fides of the applicants. Upon receipt of such applications, the Assistant Supervisor will give prompt attention to the desired examination, either in person or through a U. S. surveyor who may be at work in the locality of the land in question. The reports will be made upon the blank forms provided therefor, and these reports will be supplemented by any information at hand concerning other lands in the locality which may be settled upon or which by reason of their availability under the terms of the appropriation act providing for the survey of public lands it may be deemed advisable to survey.

The reports as to bona fides of applicants are to be based upon personal knowledge concerning the character of the settlements, and will be promptly transmitted by the Assistant Supervisor to this office with his recommendation.

Surveyors General will continue the practice as to notification to this office of the receipt of applications and their reference to the Assistant Supervisor, observing, however, the specific directions in the annual instructions, pp. 10 and 11, as to lands applied for by settlers within national forests, where reports are to be made by employees of the Forest Service, and in these cases, the applications are not to be referred to the Assistant Supervisor.

The investigations as to bona fides are to be made as promptly after their receipt as practicable and advantage will be taken by all U. S. Surveyors of opportunities presented to gather reliable information as to settlements in any locality in which they may be working, without awaiting the receipt of formal instructions therefor. This practice will be adopted in order that the surveys of the public lands may keep as near current as practicable with settlement in any locality, and thus avoid the delays which have sometimes occurred in meeting the demands where there has been delay in filing the formal applications for survey, or where the Field Service has not been able to promptly reach the cases for action.

In case of any question arising as to the bona fides of an applicant for survey which it is deemed essential should be investigated by the Field Service, the Assistant Supervisor will refer the case to the Chief of Field Division with a request that attention be given to the particular feature which it is desired should be considered, and a report of such reference will be made to this office by the Assistant Supervisor.

Chiefs of Field Divisions have been instructed to return to the U. S. Surveyors General all applications for survey in their hands for investigation which may not, by reason of the pressure of other work, receive attention at an early date by the special agents of the Field Service.

The annual instructions are hereby modified to the extent indicated by the adoption of these instructions.

Very respectfully,

CLAY TALLMAN,

Commissioner.

Circular No. 293--2.